

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2017

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.263 of 2017
& W.M.P.No.286 of 2017

V.Manivannan

... Petitioner

Vs

1. The District Elementary Educational Officer
Dharmapuri District, Dharmapuri.
2. The Elementary Educational Officer
Pappireddipatty, Dharmapuri District. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus, by quashing the order passed by the 2nd respondent vide Na.Ka.No.56/A1/2015 dated 29.12.2016 and directing the respondents to restore the order passed in Na.Ka.No.607/A1/2012 dated 18.10.2010 by the 2nd respondent refixed as Rs.15600+5400=21000 scale with all consequential service benefits in favour of the petitioner.

For Petitioner : Mr.V.Vijayakumar

For Respondents : Mr.K.Dhananjayan,
Special Government Pleader

ORDER

By consent, the writ petition is taken up for final disposal. Mr.K.Dhananjayan, learned Special Government Pleader accepts notice on behalf of the respondents.

2. The petitioner would state that he initially joined the service as Secondary Grade Teacher on 11.09.1987 and got his promotions as Selection Grade Teacher ; Elementary School Headmaster and Middle School Headmaster on various dates. The petitioner would further state that on implementation of the VI Pay Commission Recommendation, the salary of the Middle School Headmaster is lesser than the Elementary School Headmaster and he made a request to set right the anomaly and accordingly, he was given salary applicable to the Elementary School Headmaster and thereby, the 3rd respondent has also affirmed the same with an annual increment of 3% on the basis

of the time scale of pay at Rs.15600-39100 + Rs.5400 Grade Pay. The grievance expressed by the petitioner is that all of a sudden, the 2nd respondent has passed the impugned order dated 29.12.2015, cancelling his earlier order dated 18.10.2012 and also ordered for recovery of the excess amount paid to the petitioner.

3. The learned counsel for the petitioner would submit that admittedly, the impugned order came to be passed without affording any opportunity whatsoever to the petitioner and the same is in violation of G.O.Ms.Nos.38, 234 and 23 of the School Education Department, dated 05.03.2001 ; 01.06.2009 and 12.01.2011 respectively as well as the Letter of the Finance Department in Letter No.14483/CMPC/2011-1 dated 05.01.2012 and challenging the legality of the same, the petitioner is constrained to approach this Court by filing the present writ petition.

4. Heard the submissions of Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents.

5. A perusal of the impugned order would clearly reveal that before effecting recovery, the petitioner has not been put on notice and since the said order visits the petitioner with grave civil consequences in the form of recovery, the 2nd respondent ought to have put the petitioner on notice before ordering recovery and it has not been done so. Hence, on the sole ground, the impugned order warrants interference.

6. In the result, the writ petition is partly allowed and the impugned order the 2nd respondent dated 29.12.2016 in Na.Ka.No.56/A1/2015 is hereby set aside and the 2nd respondent is directed to issue Show Cause Notice to the petitioner as to the reasons for recovery within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the petitioner is at liberty to submit his response/explanation within a further period of two weeks thereafter and the 2nd respondent, on receipt of such response/explanation from the petitioner, is directed to consider the same on merits and in accordance with law and pass orders within a further period of six weeks thereafter and communicate the decision taken, to the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

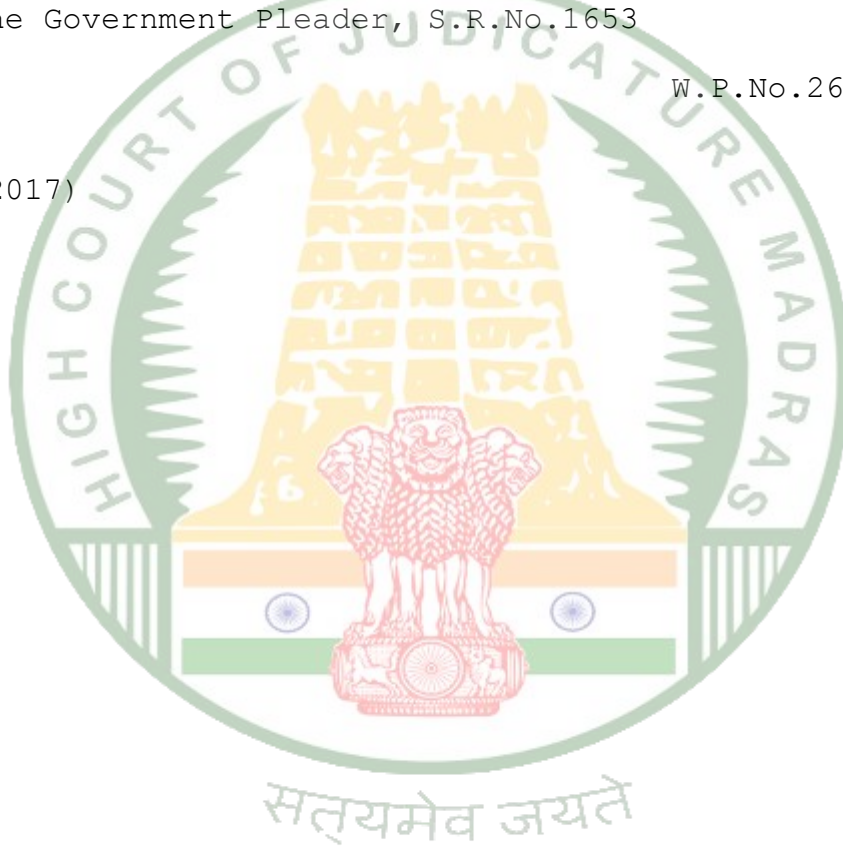
1. The District Elementary
Educational Officer
Dharmapuri District, Dharmapuri.
2. The Elementary Educational Officer
Pappireddipatty,
Dharmapuri District.

+1cc to Mr.V.Vijayakumar, Advocate, S.R.No.1091

+1cc to the Government Pleader, S.R.No.1653

W.P.No.263 of 2017

CP(CO)
CA(20/01/2017)



WEB COPY