

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Coram

Dated: 23.01.2017

The Honourable Mr. JUSTICE M.SATHYANARAYANAN

Writ Petition Nos.1629 and 1630 of 2017
and W.M.P.No.1590 to 1593 of 2017

U.Palanisamy ... Petitioner in W.P.No.1629/2017

K.Elumalai ... Petitioner in W.P.No.1630/2017

-Vs-

1. The District Education Officer (Audit),
Cuddalore District, Cuddalore.
2. The District Education Officer,
Thiruvannamalai District,
Thiruvannamalai.
3. The Assistant Elementary Education Officer,
Tondrampet - 606 707
Tiruvannamalai District. ... Respondents in both the W.Ps.

Writ Petitions have been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the 3rd respondent's order made in Na.Ka.No.157/A1/2016 dated 23.12.2016 and 20.12.2016 respectively and quash the same.

For Petitioners : Mr.Durai.Gunasekaran

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

COMMON ORDER

By consent, both the writ petitions are taken up for final disposal as the issue to be adjudicated is one and the same. Mr.K.Dhananjayan, learned Special Government Pleader accepts notice on behalf of the respondents.

2. The petitioner in W.P.No.1629/2017 is having qualification of B.A.(Tamil) and B.Ed.(Tamil) and after completing the same, he got his name registered and enrolled in the jurisdictional Employment Exchange. As per G.O.Ms.No.113, School Education Department dated 14.03.1997, the petitioner was appointed as Secondary Grade Teacher through sponsorship from the District Employment Exchange on 07.08.1997 and he joined duty on 11.08.1997 in Panchayat Union Primary School, Allapanur, Thandrapet Block, Thiruvannamalai District. Subsequently, the petitioner has completed M.A.(Tamil) Degree at Annamalai University during May 1999 and he was granted incentive increment for acquiring the said qualification from 31.05.1991.

3. The petitioner in W.P.No.1630/2017 is having qualification of B.A.(Tamil) and B.Ed.,(Tamil) and after completing the same, he got his name registered and enrolled in the jurisdictional employment exchange and in terms of G.O.No.113, he was appointed as Secondary Grade Teacher in Panchayat Union Middle School, Chenna Samuthram, Thiruvannamalai District and joined duty on 31.08.1999 and subsequently, he completed M.A.(Tamil) Degree through University of Madras in the year 2000 and he was paid incentive increment for acquiring the said qualification from 30.06.2000.

4. The grievance expressed by the petitioners is that to the shock and surprise, the Additional Assistant Elementary Educational Officer, by order dated 23.12.2016 and 20.12.2016 respectively, sought to recover the amount paid to the petitioners towards incentive increment on account of audit objection and challenging the legality of the order, they came forward to file these writ petitions.

5. Learned counsel for the petitioners would submit that by virtue of the impugned orders, the amount paid towards incentive increment to the petitioners are sought to be recovered, based on the audit objection and admittedly, the petitioner have not been put on notice before the order of recovery and hence, the impugned orders are per se in violation of principles of natural justice and warrant interference.

6. Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents would submit that since the petitioners are not eligible to get the amount, the orders of recovery has been rightly passed.

7. This Court has considered the rival submissions and perused the materials available on record.

8. A perusal of the impugned proceedings would disclose that the petitioners have not been put on notice before the order of recovery based on the audit objection. It is well settled law that the order of recovery of the amount already paid is having grave civil consequence and the delinquent ought to have been put on notice before recovery but unfortunately it has not been done so.

9. In the result, the writ petitions are disposed of and the impugned orders passed by the Additional Assistant Elementary Educational Officer, Tondrampet, Tiruvannamalai District, have to be treated as a show cause notice and the petitioners are at liberty to submit their response within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the representations from the petitioner, the said official is directed to consider their representations on merits and pass orders in accordance with law within a further period of six weeks thereafter and communicate the decision taken to the petitioners. Till such time, the order of recovery shall be kept in abeyance. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The District Education Officer (Audit),
Cuddalore District, Cuddalore.
2. The District Education Officer,
Thiruvannamalai District,
Thiruvannamalai.
3. The Assistant Elementary Education Officer,
Tondrampet - 606 707
Thiruvannamalai District.

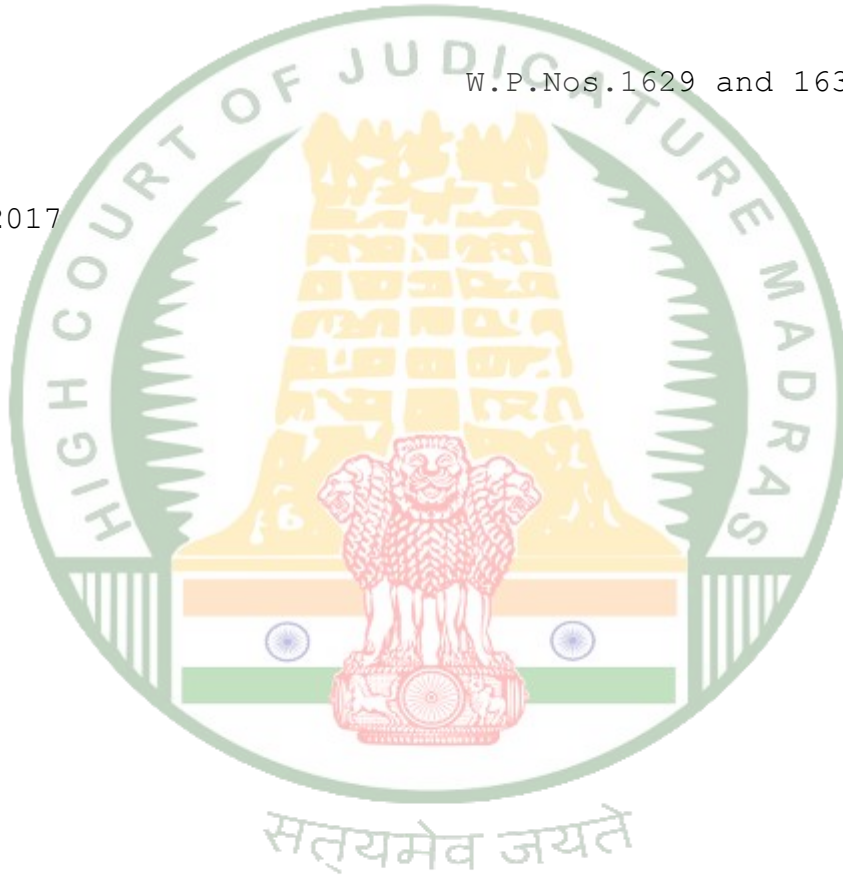
Copy to

The Additional Assistant Elementary
Educational Officer, Tondrampet,
Tiruvannamalai District.

+2cc to Mr.Durai Gunasekaran, Advocate SR.4277, 4278
+1cc to the Government Pleader Sr.4365

W.P.Nos.1629 and 1630 of 2017

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