

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.07.2017

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THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.34354 of 2012
and
M.P.Nos.1 and 2 of 2012

M.Shanmugam

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Petitioner

Vs

1.The State of Tamil Nadu,
Rep by the Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.

2.The Director of Elementary Education,
College Road, Nungambakkam,
Chennai - 600 006.

3.The District Elementary Education Officer,
Vellore District, Vellore.

4.The Additional Assistant Elementary Education Officer,
Kandhili, Tirupattur Taluk,
Vellore District.

5.The Assistant Director,
Government Department Auditing,
Vellore District,
Vellore.

6.The Accountant General,
Office of the Principle Accountant General (AE),
Tamil Nadu,
Chennai - 600 018.

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Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Ceritorified Mandamus, to call for the records pertaining to the order in proceedings No.Na.Ka.No.1834/A2/2010 dated 08.12.2010 passed by the 4th respondent in so far as the petitioner is concerned and consequent order of the 6th respondent vide his proceeding No.P16/11607450/05/PPO.No.R1607450 dated 31.05.2011 herein and quash the same as illegal, arbitrary, unreasonable, being violative of rules and principles of natural justice and direct the 4th and 6th respondents to disburse the DCRG amount

of Rs.6,44,999.00 forthwith.

For Petitioner :M/s.V.Thirupathi
For Respondents :Mrs.K.Bhuvaneswari
Government Advocate
for R1 to R5
M/s.V.Vijay Shankar for R6

ORDER

The prayer in this writ petition is to quash the recovery order dated 08.12.2010 ordering recovery or the salary paid to this petitioner based on the audit objection from the pensionary benefits.

2. Heard, V.Thirupathi learned counsel for the petitioner and Mrs.K.Bhuvaneswari learned Government Advocate appearing for respondents 1 to 5 as well as Mr.V.Vijay the learned counsel for 6th respondent.

3. The learned counsel appearing for the petitioner submitted that the salary was fixed based on G.O.Ms.No.202, School Education Department, dated 24.09.2008 and the petitioner received the same. However, based on audit objection, the order of recovery has been passed and before ordering recovery, no notice was issued to the petitioner calling upon them to show cause as to why such recovery order cannot be passed. As the recovery order is having civil consequences, the respondents are bound to give notice and only after the objections filed by the petitioner is considered, any recovery can be ordered from the salary already paid.

4. In such view of the matter, the impugned order is set aside on the sole ground of violation of principles of natural justice. However, this order will not preclude the appropriate respondent to issue notice and call for objections from the petitioner and thereafter decide the matter afresh in accordance with law.

5. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
State of Tamil Nadu,
School Education Department,
Fort St. George,
Chennai - 600 009.

2.The Director of Elementary Education,
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Chennai - 600 018.

+1cc to Mr.V.Thirupathi, Advocate SR.No.50557
+1cc to the Government Pleader SR.No.51015

KK(CO)
GN(01/08/2017)

W.P.No.34354 of 2012

सत्यमेव जयते

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