

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.44175/2016 & WMP.No.38003/2016

Sivapandian

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Petitioner

Vs

1.The Chief Educational Officer
Vellore-9.

2.The District Educational Officer
Tirupattur, Vellore District.

3.The Assistant Treasury Officer
Sub Treasury Office, Tirupattur.

4.The Head Master
Government Higher Secondary School
Vadugamuthampatti
Tirupattur Taluk, Vellore District. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling for the records in Na.Ka.No.651/E/2016 dated 24.11.2016 on the file of the 3rd respondent and quash the same.

For Petitioner : Mr.G.Rajan

For Respondents: Mr.K.Dhananjayan, Spl.GP

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 his wife Nandhini, was working as a teacher in the services of the 4th respondent / School and out of the wedlock, three children, namely, Divya, Nithya and Gokul, were born. The petitioner would further submit that his wife died in harness on account of illness on 14.02.2000 and thereafter, he submitted an application for compassionate ground appointment to support and maintain his three

children, who were minors at the relevant point of time. Subsequently, the petitioner was in receipt of Family Pension. The petitioner would further aver that his first daughter got married on 25.05.2008. So also his second daughter on 30.12.2012 and his son, viz., Gokul, remains a bachelor and for his support, he got married for the second time to one Thangamani and it was also brought to the knowledge of the respondents. The grievance now expressed by the petitioner is that the 3rd respondent, vide the impugned order dated 24.11.2016, had ordered for recovery of a sum of Rs.7,43,327/- paid to the petitioner by way of Family Pension on the ground of second marriage and also his ineligibility. Challenging the legality of the same, the petitioner has filed the present writ petition.

3 The learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that as per the nomination of Death-cum-Retirement Gratuity, the petitioner has indicated that Thangamani is his wife and as such, there is no suppression of fact and admittedly, the 3rd respondent, before passing the impugned order of recovery, has not put the petitioner on notice and since the order is in gross violation of principles of natural justice, it warrants interference and prays for setting aside of the order.

4 Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents would submit that the 3rd respondent, after taking into consideration the materials as well as the facts and circumstances, has rightly passed the impugned order and prays for dismissal of this writ petition.

5 This Court has considered the rival submissions and also perused the materials placed before it.

6 A perusal of the impugned order passed by the 3rd respondent would disclose that before effecting the order of recovery of Rs.7,43,327/- paid to the petitioner by way of Family Pension, alleging that he got married for the second time and also suppressed certain material facts, he has failed to put the petitioner on notice and hence, on the sole ground, the impugned order warrants interference.

7 It is also a well settled position of law that whenever an order visits the person concerned with grave consequences, he should be put on notice so as to enable him to meet out the allegations and admittedly, the 3rd respondent did not do so.

8 In the result, the writ petition is partly allowed and the impugned order passed by the 3rd respondent in Na.Ka.No.651/E/2016 dated 24.11.2016 is set aside and the matter is once again remanded to the 3rd respondent. The impugned order dated 24.11.2016 shall be construed to be a show cause notice and the petitioner is at liberty to submit his response within a period of two weeks from the date of receipt of a copy of this order and the 3rd respondent, on receipt of the same, is directed to consider the said explanation / response submitted by the petitioner, 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. Till such time, the 3rd respondent shall continue to pay the Family Pension to the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

AP

To

- 1.The Chief Educational Officer
Vellore-9.
- 2.The District Educational Officer
Tirupattur, Vellore District.
- 3.The Assistant Treasury Officer
Sub Treasury Office, Tirupattur.
- 4.The Head Master
Government Higher Secondary School
Vadugamuthampatti
Tirupattur Taluk, Vellore District.

1 cc to Government Pleader, Sr. 230
1 cc to Mr.G. Rajan, Advocate, Sr. 146

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