



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD).No.6187 of 2013

and

MP(MD)No.2 OF 2013

and

WMP(MD)No.11607 OF 2016

R.Renganayaki

... Petitioner

Vs.

1.The Director of Elementary School Education,
DPI Complex, Nungambakkam,
Chennai.

2.The District Elementary Educational Officer,
Madurai District, Madurai.

3.The Assistant Elementary Education Officer,
Kallikudi Union, Kallikudi,
Madurai District

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings bearing Na.Ka.No.309/A1/12 dated 04.04.2012 passed by the 3rd respondent and quash the same and consequently direct the respondents herein to refix the salary of the petitioner in the minimum time scale of pay of selection grade in Secondary Grade Teacher post from the date of her appointment in the Government school as on 22.07.2008 as per the G.O.Ms.No.1296 dated 19.06.1982.

For Petitioner : Mr.K.Samidurai

For Respondents 1to 3 : Mr.V. Muruganantham

Additional Government Pleader

O R D E R

The petitioner, challenging the impugned order dated 04.04.2012, has come out with this writ petition. By the said impugned order, the third respondent has sought for recovery from the petitioner. According to the third respondent, the said recovery was necessitated because of the excess payment that has been paid to the petitioner, by way of wrong calculation of her salary.



2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

3. The learned counsel for the petitioner would submit that before passing the impugned order of recovery as well as refixation of salary, no notice was given to the petitioner and no opportunity was given to her. When that being so, all of a sudden, straight away the impugned order of recovery was passed. Therefore, the learned counsel for the petitioner would submit that the impugned order is liable to be interfered with.

4. The learned Additional Government Pleader would submit that the selection grade payment was wrongly given to the petitioner from 01.10.2007 to 27.02.2008. Therefore, anomaly created, because of wrong fixation of pay to the petitioner, had to be rectified. Therefore, in order to rectify the same, it was necessitated to pass an order to refix his salary and while refixing the salary, since excess amount has already been paid to the petitioner by way of wrong calculation of the salary, the same was sought to be recovered and whenever excess amount paid by way of wrong calculation of the salary payable to the Government servant, the same can be rectified and only a usual procedure has to be adopted and the impugned order is only to set right the anomaly and therefore, there can be no infirmity in the said impugned order. Hence, it requires no interference from this Court.

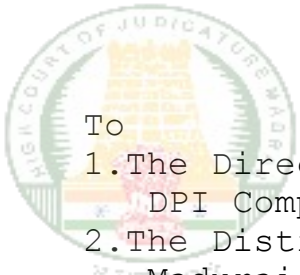
5. This Court has considered the rival submissions.

6. Admittedly, the impugned order is an order of recovery and also an order refixing the salary of the petitioner. Whatever be the reasons for passing this order, when recovery is effected against the Government servant, he should have been put on notice and after ascertaining his views, orders could have been passed. Without giving an opportunity, if order of recovery is passed, which would affect the interest of the petitioner, then, certainly, it is a case of violation of principles of natural justice and therefore, on that ground alone, this Court feels that the impugned order is liable to be interfered with.

7. In the result, the writ petition is allowed and the impugned order is quashed. It is open to the respondents to issue notice to the petitioner and after getting explanation from her suitable orders can be passed. No costs. Consequently connected Miscellaneous Petitions in M.P.No.2 of 2013 and W.M.P.No.11607/2016 are closed.

Sd/-

Assistant Registrar(RECORDS)



To

- 1.The Director of Elementary School Education,
DPI Complex, Nungambakkam, Chennai.
- 2.The District Elementary Educational Officer,
Madurai District, Madurai.
- 3.The Assistant Elementary Education Officer,
Kallikudi Union, Kallikudi, Madurai District.

+1cc to M/s. K.SAMIDURAI Advocate in SR.No.6468
+1cc to SPECIAL GOVERNMENT PLEADER in SR. No.6277
JS/SV/MMS/28.02.2017/3P-6C

Order made in
W.P. (MD) .No.6187 of 2013
03.02.2017