

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2018

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THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.Nos.6115 to 6117 of 2018

WMP.Nos.7541 to 7546 of 2018

A.Subramani ... Petitioner in WP.No.6115 of 2018
M.Indira Gandhi ... Petitioner in WP.No.6116 of 2018
N.Poongodi ... Petitioner in WP.No.6117 of 2018

...vs...

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai-600 006.
- 2.The District Elementary Educational Officer,
Krishnagiri District.
- 3.The Assistant Elementary Educational Officer,
Mathur Union,
Krishnagiri District. ... Respondents in all Wps.

Prayer:- Writ Petitions filed under Article 226 of the
Constitution of India praying for

(i) a writ of Certiorarified Mandamus calling for the records of the third respondent in Na.Ka.No.217/A1/2013, dated 27.10.2015 and quash the same and consequently, direct the third respondent to repay the petitioner the sum of Rs.1,24,208/- deducted from the petitioner's salary and consequently, direct the respondents to continue to pay incentive increment for acquiring B.Ed., qualification that had been granted to the petitioner vide the proceedings of the third respondent dated 05.07.2013 in Na.Ka.No.217/A1/2013(prayer in WP.No.6115 of 2018).

(ii) a writ of Certiorarified Mandamus calling for the records of the third respondent in Na.Ka.No.217/A2/2013, dated 03.03.2015 and quash the same and consequently, direct the third respondent to repay the petitioner the sum of Rs.1,45,574/- deducted from the petitioner's salary and consequently, direct the respondents to continue to pay incentive increment for acquiring B.Ed., qualification that had been granted to the petitioner vide the proceedings of the third respondent dated 03.03.2015(prayer in WP.No.6116 of 2018).

(iii) a writ of Certiorarified Mandamus calling for the records of the third respondent in Na.Ka.No.217/A2/2013, dated 03.03.2015 and quash the same and consequently, direct the third respondent to repay the petitioner the sum of Rs.90,153/- deducted from the petitioner's salary and consequently, direct the respondents to continue to pay incentive increment for acquiring B.Ed., qualification that had been granted to the petitioner vide the proceedings of the third respondent dated 03.03.2015(prayer in WP.No.6117 of 2018).

For Petitioners(in all WPs) : Mrs.Dakshayani Reddy

For Respondents(in all WPs) : Mr.C.Munusamy, Spl.GP

COMMON ORDER

All these writ petitions have been filed by the petitioners, who are the Teachers, challenging the recovery of the incentive increment paid to them by the respondents by a recovery order dated 03.03.2015, on the ground that the same is illegal and arbitrary and inasmuch as they are legally entitled to such increment. As such prayer has been made to quash the order of recovery and direct the respondents to refund the recovery amount and also continue to pay them the incentive increment.

2.It appears that inspite of an opportunity given, no reply affidavit has been filed.

3.The learned counsel for the petitioners placing reliance on a decision rendered by this Court in W.P.No.28066 of 2015 dated 11.07.2018 in the case of P.Aloysius Durairaj Vs. The District Elementary Educational Officer, Kancheepuram and Another, submits that the cases of the petitioners are covered by the said decision. But the petitioners wants to confine their prayer seeking a direction to the respondents to treat the notice of recovery as a notice of show cause and to allow the petitioners to file their explanation against such show cause and on receipt of the same, the respondents be directed to address the same in accordance with law within a stipulated period and till then, no recovery be made.

4. The learned Special Government Pleader appearing for the respondents, however submits that the petitioners are not entitled to the incentive increment and as such, the respondents be allowed time to file a reply affidavit.

5. But considering the facts and submissions made, and also the nature of relief sought for, this Court is of the view that no useful purpose is going to be served to keep the matter pending awaiting reply affidavit. Hence, after hearing the

counsel for the parties, these writ petitions stand disposed of with a direction to the respondents to treat the notice of recovery as show cause and allow the petitioners to file their response/explanation, to the same within six weeks hence and then, to take an informed and considered decision on such response/explanation of the petitioners within six weeks receipt of such response/explanation and intimate the decision taken thereof to the petitioners. However, while addressing such response/explanation, the respondent concerned must address the law laid down in the case of P.Aloysius Durairaj cited supra. But, it is made clear that this Court has expressed no opinion on the merit of the case of the petitioners in any manner. Hence, there is no fetter on the part of the respondents to take a decision on such response/ explanation as it may deem fit and proper but, in the manner known to law taking note of the decision cited supra. However, till decision is taken, no further recovery be made. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai-600 006.
2. The District Elementary Educational Officer,
Krishnagiri District.
3. The Assistant Elementary Educational Officer,
Mathur Union,
Krishnagiri District.

+lcc to M/S.Dakshyani Reddy, Advocate Sr.76846
+lcc to the Government Pleader Sr.76736

WP.No.6115 to 6117 of 2018

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srg 28/11/2018