

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05-03-2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.4897 of 2018

and

W.M.P. No.6042 of 2018

Tmt.D.Leenus

.. Petitioner

-vs-

1. The Director of Elementary Education,
College Road,
Chennai-6.
 2. The District Elementary Educational Officer,
Thiruvarur.
 3. The District Elementary Educational Officer,
Nagapattinam.
- .. Respondents

Petition under Article 226 of the Constitution of India,
praying for the issuance of a Writ of Certiorarified Mandamus,
calling for the entire records connected with the impugned order
passed by the third respondent vide Na.Ka.No.3771/A1/2017 dated
1.12.2017 and quash the same and direct the second respondent to
refix/restore the scale of pay of the petitioner of Rs.27,420/-
as on 1.7.2017.

For Petitioner - Mr.S.N.Ravichandran

For Respondents - Mrs.P.Rajalakshmi,
Additional Government Pleader.

ORDER

This writ petition has been directed against the impugned
order of recovery of the third respondent dated 1.12.2017,
seeking recovery of the amount without mentioning the quantum of
recovery.

2. The learned counsel appearing for the petitioner, assailing the same, complained before this Court that on earlier occasion when the petitioner face a similar problem for having availed the benefit of Selection Grade from 1.1.2007 to 22.7.2008, the petitioner gave her willingness to receive the Elementary School Headmaster's scale from 1.1.2007 to 22.7.2008 till the completion of 10 years of service in the said post for availing the benefit of Selection Grade. Thereafter, the petitioner received the Middle School Headmaster's scale. Accordingly, she also agreed to refund the amount of Rs.87,581/-, which is the difference of amount, to the Government Treasury. The petitioner had also remitted the said amount. This has also been explained by the second respondent/The District Educational Officer, Thiruvavarur in his letter dated 7.10.2015.

3. The second respondent also, in the said proceedings dated 7.10.2015, made it clear that the petitioner would be issued with re-fixation order, which will be subject to audit objection. Now without there being any audit objection and seeking explanation from the petitioner, once again the third respondent/District Elementary Educational Officer, Nagapattinam, has issued the present impugned order dated 1.12.2017, seeking recovery of some amount, which has not even been quantified. Had there been any notice issued to the petitioner, a proper explanation could have been given and the present impugned order should have been avoided. Since there is no notice or explanation called for from the petitioner, the impugned order passed against the petitioner violating the principles of natural justice is liable to go.

4. The learned Additional Government Pleader, appearing on behalf of the respondents, submitted that as the impugned order does not so far mention about the issuance of notice or any semblance of calling for explanation of the petitioner, the same can be treated as notice and the petitioner may be given sufficient time to give her explanation. Thereafter, the third respondent shall pass appropriate order on merits.

5. As the petitioner has been issued with the impugned order, without any notice, the impugned order shall be treated as notice by both the parties. The petitioner is given two weeks time from the date of receipt of a copy of this order, to give her explanation and on receipt of any such explanation from the petitioner, the third respondent/District Educational Officer, Nagapattinam is hereby directed to pass a speaking order on merits within three weeks thereafter.

6. The writ petition is disposed of on the above terms. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Director of Elementary Education,
College Road,
Chennai-6.
2. The District Elementary Educational Officer,
Thiruvavur.
3. The District Elementary Educational Officer,
Nagapattinam.

+1cc to Mr.S.N.Ravichandran, Advocate, sr.16603
+1cc to The Government Pleader, sr.17121

W.P.No.4897 of 2018

RMP (21/03/2018)

सत्यमेव जयते

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