

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.32296 of 2017

and

W.M.P.No.35555 of 2017

S.Dhandapani

... Petitioner

Vs.

1.The District Elementary Educational Officer,
Vellore District,
Vellore.

2.The Assistant Elementary Educational Officer,
Thimiri Union,
Vellore District. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.781/A1/2017 dated 22.11.2017 and quash the same and consequently direct the Respondents to continue to pay the incentive increment to the petitioner for acquiring B.Ed., degree.

For Petitioner : Mr.G.Sankaran

For Respondents : Mrs.P.Rajalakshmi
Additional Government Pleader

O R D E R

This Writ Petition has been filed questioning the correctness of the impugned proceedings issued by the 2nd respondent in Na.Ka.No.781/A1/2017 dated 22.11.2017, seeking recovery of the alleged excess amount, said to have been paid as incentive increment for acquiring higher qualification viz., B.Ed., degree. The petitioner was appointed as Secondary Grade Teacher in Elementary School on 14.09.1987 and thereafter, promoted as Primary School Headmaster based on seniority in the year 2004. The petitioner also completed with B.Lit., in the year 2008. After his promotion to the post of Middle School Headmaster in the year 2010, he has also acquired B.Ed., degree in the year 2012. On the basis of G.O.Ms.No.42, Education, Department, dated 10.01.1969, the petitioner

made an application to grant incentive increment. Since, the Government have issued not only G.O.Ms.No.42 Education, Department dated 10.01.1969, but also another G.O.Ms.No.1024, Education, Science & Technology Department, dated 09.12.1993, stating that a Teacher acquiring higher qualification is entitled to receive incentive increment for acquiring the additional qualification and restricting the said two incentive increments in G.O.Ms.No.1024, Education, Science & Technology Department, dated 19.12.1993, the petitioner was sanctioned with incentive for B.Ed., degree from 01.06.2012. After 5 years, without any notice whatsoever, the second respondent/the Assistant Elementary Educational Officer, issued the impugned order dated 22.11.2017, directing the petitioner to pay back the excess amount paid in the form of incentive increment for having acquired the B.Ed., degree.

2.On perusal of the impugned order, it is not shown that the petitioner has been issued with any notice or called upon to submit his explanation as to why the incentive increment has been paid for acquiring the higher qualification should not be recovered. Therefore, the impugned order passed without issuing notice seeking to recover the incentive increment already paid to the petitioner cannot be passed, the test of reasonableness for the reason that it has not been complied with the principle of natural justice.

3.The learned Additional Government Pleader appearing for the respondent would submit that the respondent should be given liberty to issue fresh notice calling upon him to submit his explanation and then to pass appropriate orders in the manner known to law. Accepting the request of the learned Additional Government Pleader, the petitioner is directed to treat the impugned proceeding as a mere notice and submit his explanation within a period of three weeks from the date of receipt of copy of this order. On receipt of the same, the second respondent shall consider and pass a speaking order.

4.Accordingly, this Writ Petition stands allowed and the impugned order dated 22.11.2017 is set aside. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

Jrl/Sai

To

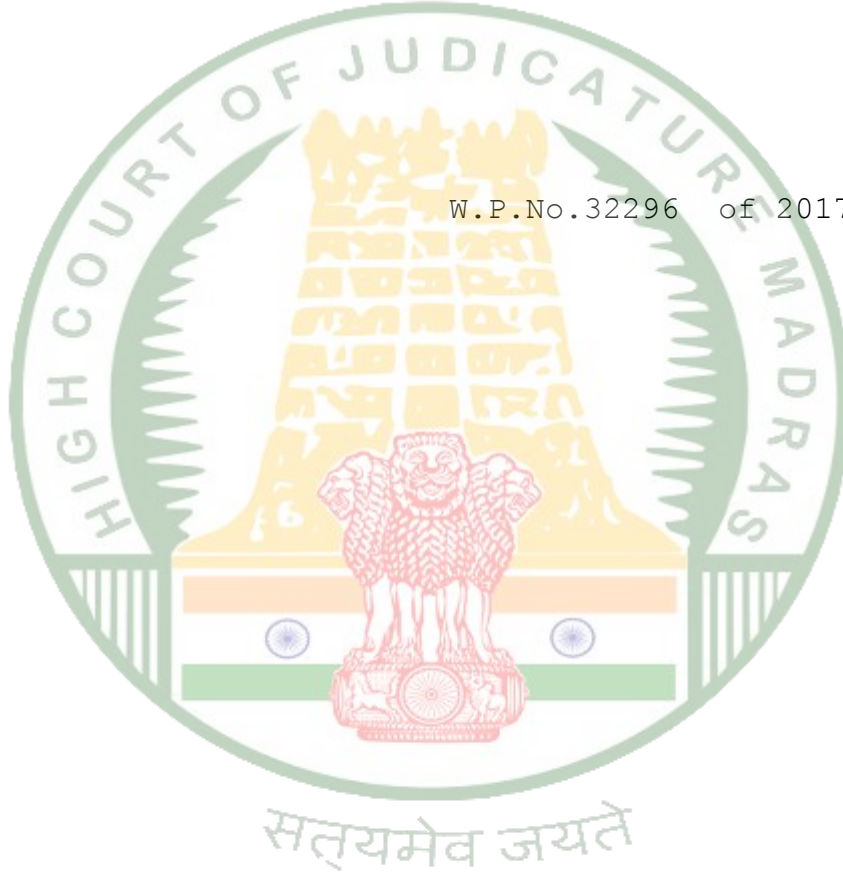
1.The District Elementary Educational Officer,
Vellore District,
Vellore.

2.The Assistant Elementary Educational Officer,
Thimiri Union,
Vellore District.

+2 CC to The Government Pleader Sr.Nos.2413, 3006

CO-SSI

ths : 03.02.2018



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