

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2018

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.30882 of 2013

and

M.P.No.1 of 2013

and

M.P.No.1 of 2014

and

W.M.P.No.7831 of 2018

Tmt.K.Parameswari ...Petitioner

Vs

1.The Secretary to Government
School Education Department,
Fort St.George,
Chennai - 600 009.

2.The Joint Director of School
Education (Vocational Education)
College Road
Chennai - 600 006

3.The District Educational Officer,
Viruthachalam, Cuddalore District.

4.The Head Master
Government Higher Secondary School
Thozuthur - 606 303
Cuddalore District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ or order or direction, particularly in the nature of Writ of Certiorari, calling for records pertaining to the orders of the 3rd respondent in Ne.Mu.Na.Ko 7437/A2/2013 dated 23.10.2013 relating to the re-fixation and recovery of pay and quash the same.

For Petitioner :Mr.S.Kamadevan

For Respondents:Mr.K.Karthikeyan, GA

O R D E R

The order of recovery in proceedings dated 23.10.2013 in relation to the re-fixation and recovery of pay is under challenge in this writ petition.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner was initially appointed as part time Vocational Instructor and thereafter brought under the regular establishment in a sanctioned post.

3.The grievance of the writ petitioner is that the reduction of the scale of pay and recovery had been imposed based on the audit objections and without issuing any show cause notice and opportunity to the writ petitioner.

4.The learned counsel appearing on behalf of the writ petitioner states that the order impugned is in violation of the principles of natural justice. The grounds raised by the writ petitioner is that no show cause notice was issued before passing the impugned order of rejection or recovery is not disputed by the learned Government Advocate appearing on behalf of the respondents.

5.This being the factum of the case, this Court is of an opinion that it is a fit case for remittance. This apart, any order affecting the service right of an employee cannot be issued without providing an opportunity to the employee concerned.

6.Accordingly, the impugned order passed by the third respondent in proceedings in Ne.Mu.Na.Ko 7437/A2/2013 dated 23.10.2013 is quashed. The respondents are directed to issue show cause notice, setting out all the details to the writ petitioner within a period of four weeks from the date of receipt of a copy of this order. On receipt of any such explanation from the writ petitioner, then the competent authorities are empowered to pass final orders on merits and in accordance with law and communicate the copy to the writ petitioner. The said exercise shall be done within a period of twelve weeks thereafter from the date of issuance of the show cause notice.

7.Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

kak

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government
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Chennai - 600 009.

2.The Joint Director of School
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College Road
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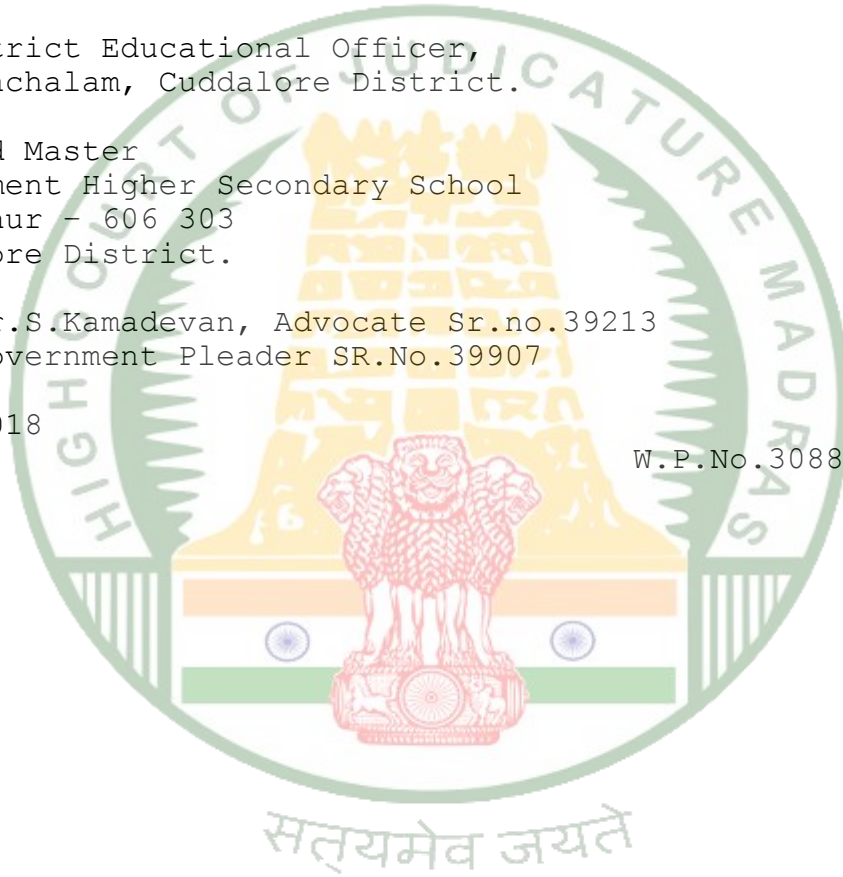
4.The Head Master
Government Higher Secondary School
Thozuthur - 606 303
Cuddalore District.

+1cc to Mr.S.Kamadevan, Advocate Sr.no.39213

+1cc to Government Pleader SR.No.39907

sm:27.6.2018

W.P.No.30882 of 2013



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