

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2018

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.11562 of 2012

A.Parasuraman

.. Petitioner

Vs.

1. The District Elementary Educational Officer,
Thiruvannamalai District,
At Thiruvannamalai.
2. The Assistant Elementary Educational Officer,
Vempakkam,
Thiruvannamalai District. ... Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order in Na.No.178/A2/2011 dated 14.03.2012 passed by the 2nd respondent and quash the same as illegal improper, unreasonable, arbitrary and against the principles of natural justice and thereby direct the respondents to refund the deducted amount to the petitioner immediately.

For Petitioner ... Mr.R.Suryaprakash for
M/s.P.A.Chithramani
For Respondent .. Mr.T.M.Pappiah

ORDER

The petitioner has approached this Court, seeking the following relief:-

"Writ of Certiorarified Mandamus calling for the records pertaining to the order in Na.No.178/A2/2011 dated 14.03.2012 passed by the 2nd respondent and quash the same as illegal improper, unreasonable, arbitrary and against the principles of natural justice and thereby direct the respondents to refund the deducted amount to the petitioner immediately. "

2. The petitioner was appointed as a Laboratory Assistant in the respondent's Department on 22.07.1981 and his pay scale was fixed at Rs.950 - 20 - 1150 - 25 - 1500. On completion of 10

years of service in 1991, he was placed on Selection Grade. Thereafter, he was promoted as Junior Assistant on 10.06.1998 and further promoted as Assistant on 02.11.2009 and his pay scale was fixed at Rs.9300 - 34800 + GP 4200.

3. According to the petitioner, as per the order in G.O.Ms.No.63 dated 26.02.2011, the pay scale for the Junior Assistants and Assistants has been fixed in all the departments and on the basis of the said Government Order, his pay was also fixed. While he was in receipt of pay scale as applicable during the post of Assistant, he was informed that an excess pay was paid to him to the tune of Rs.30,555/- from January, 2012 to March, 2012. According to the Treasury Officer, he was paid Grade Pay at Rs.4,200/- by mistake as against the entitlement of Grade Pay at Rs.2,800/-. The second respondent passed an order dated 14.03.2012 to deduct a sum of Rs.30,555/- as excess payment from the petitioner's salary. According to the petitioner, no notice has been issued to him calling for explanation, before the impugned recovery was ordered. The said order is put to challenge in the present writ petition.

4. Although several grounds raised in the writ petition, the principal ground of attack is that the principles of natural justice were violated while ordering to deduct the amount on the ground that an excess amount was paid, without giving any notice to the petitioner or providing any opportunity to the petitioner to offer his explanation. Therefore, on this ground alone, this Court, without adverting to other grounds raised in the writ petition, set aside the impugned order in Na.Ka.No.178/A2/2011 dated 14.03.2012 passed by the second respondent. The respondents are directed to issue notice to the petitioner and obtain his explanation from him and pass a considered order. It is made clear that the respondents shall pass orders after considering the representation of the petitioner on merits and in accordance with law. This direction shall be complied with by the respondents, within a period of twelve weeks from the date of receipt of a copy of this order.

5. With the above direction, this Writ Petition stands disposed of. No costs.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

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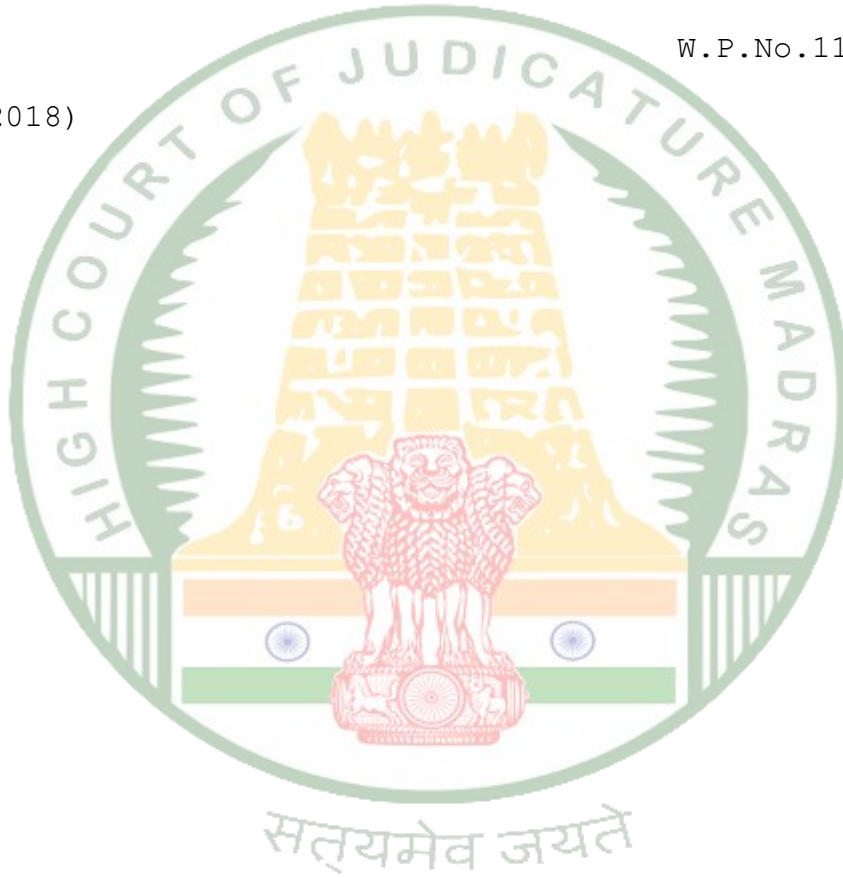
To

1. The District Elementary Educational Officer,
Thiruvannamalai District,
At Thiruvannamalai.
2. The Assistant Elementary Educational Officer,
Vempakkam,
Thiruvannamalai District.

+lcc to Mr.A.Rajesh, Advocate SR.No.21676
+lcc to Government Pleader SR.No.22862

W.P.No.11562 of 2012

GN(10/04/2018)



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