

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.36407 & 36408 of 2015

and

W.M.P.No.21255 of 2016

W.M.P.Nos.3217 & 3218 of 2017

M.P.Nos.1 & 1 of 2015

W.P.No.36407 of 2015

B.Jayakumar

...Petitioner

Vs.

1.The State of Tamil Nadu

Rep by its Principal Secretary

to Government

Health & Family Welfare Department

Secretariat, Fort St. George

Chennai - 600 009.

2.The Director of Medical Education

Kilpauk, Chennai - 600 010.

3.The Dean

Government Tanjavur Medical College

Thanjavur.

.... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings issued by the third respondent in Na.Ka.No.9915/Ni5/15 dated 02/11/2015 and to quash the same and consequently directing the respondents to continue to make the payment of annual increment for acquiring Master of Librarian and Information Science (MLIS) acquired by the petitioner.

For Petitioner : Mr.G.Sankaran [in both WPs]

For Respondents : Mr.K.Karthikeyan [in both WPs]
Government Advocate

W.P.No.36408 of 2015

P.Venkatajalam

...Petitioner

Vs.

1.The State of Tamil Nadu

Rep by its Principal Secretary to Government

Health & Family Welfare Department

Secretariat, Fort St. George

Chennai - 600 009.

2.The Director of Medical Education
Kilpauk, Chennai - 600 010.

3.The Dean
Government Dharmapuri Medical College
Dharmapuri.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings issued by the third respondent in Na.Ka.No.6127/Ni3/15 dated 28/10/2015 and to quash the same and consequently directing the respondents to continue to make the payment of annual increment for acquiring Master of Librarian and Information Science (MLIS) acquired by the petitioner.

For Petitioners : Mr.G.Sankaran [in both WPs]

For Respondents : M.K.Karthikeyan [in both WPs]
Government Advocate

C O M M O N O R D E R

The orders of recovery issued by the third respondent in proceedings dated 28.10.2015 and 02.11.2015 are under challenge in these writ petitions.

2.The learned counsel appearing on behalf of the writ petitioners mainly contended that the impugned orders of recovery have been issued without issuing any show cause notice and opportunity to the writ petitioners and the same are in violation of the principles of natural justice.

3.The learned Government Advocate appearing on behalf of the respondents is unable to dispute the fact raised in this regard by the writ petitioner.

4.This court is of an opinion that any order affecting the service conditions or the monetary benefits of an employee has to be issued only after issuing show cause notice to the employee and by providing opportunity to the employee concerned.

5.In view of the fact that no opportunity has been given to the writ petitioners before issuing the impugned orders of recovery, this court is of an opinion that the present writ petitions are fit case for remittance. Accordingly, the impugned orders passed by the third respondent in Na.Ka.No.9915/Ni5/15 dated 02.11.2015 and Na.Ka.No.6127/Ni3/15 dated 28/10/2015 are quashed and the respondents are directed to issue show cause notice setting out all the details enabling the writ petitioners to submit their explanations within a period of four(4) weeks from the date of receipt of a copy of this order. On receipt of such show cause notice, the

writ petitioners are at liberty to submit their explanations within a period of two(2) weeks thereafter, the respondents are bound to consider the materials on record and pass final orders.

6.Accordingly, these writ petitions stand allowed. Consequently, connected miscellaneous petitions are closed. However, there is no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

may

To

- 1.The Principal Secretary to Government
Health & Family Welfare Department
Secretariat, Fort St. George
Chennai - 600 009.
- 2.The Director of Medical Education
Kilpauk, Chennai - 600 010.
- 3.The Dean
Government Dharmapuri Medical College
Dharmapuri.

+ 1 cc to Mr. Government Pleader Sr.38673 & 38674

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CCC
EU.4.7.2018

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