

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.779 of 2015
and
M.P.No.2 of 2015

S.Sathiya ... Petitioner

-Vs-

- 1.The Chief Education Officer,
Collector Office,
Dharmapuri.
- 2.The Headmaster,
Government Higher Secondary School,
Linganayakkanhalli,
Dharmapuri District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in the proceedings in letter dated 22.12.2014 passed by the second respondent and to quash the same and further directing the first respondent not to change existing pay structure of the petitioner and to allow her to receive the present pay structure of Rs.15600-39100+Grade pay of Rs.5,400/-.

For Petitioner :: Mr.S.Hemanand

For Respondents :: Mr.K.Karthikeyan
Government Advocate

ORDER

The order of recovery dated 22.12.2014 passed by the second respondent is under challenge in this writ petition.

2.The writ petitioner joined as teacher in Harur Panchayat Primary School on 08.07.1988 and was transferred to Morapur Panchayat School on 05.10.1989. Thereafter, the petitioner was appointed as Primary School Headmistress in Ayyampatty Panchayat Primary School on 23.07.2007 and then, she was posted as B.T. Assistant in Tamil and promoted as Middle School Headmistress. On 17.12.2011. The above said school was upgraded as Higher Secondary School and thereafter, the

petitioner was serving as B.T. Assistant Tamil Teacher in the Higher Secondary School.

3.The respondents issued the impugned order of recovery stating that the scale of pay fixed for the petitioner was erroneous and therefore, the order of recovery was imposed on the ground that the excess pay has to be recovered from the writ petitioner.

4.At the outset, the learned Government Advocate appearing on behalf of the respondents states that the scale of pay fixed based on an in applicable Government Order and therefore, there is no irregularity in respect of the recovery order passed by the respondents.

5.This Court is of an opinion that no notice and opportunity was provided to the writ petitioner before passing the impugned order of recovery. Admittedly, any order affecting the rights of an employee is to be passed only after providing the reasonable opportunity to the employee concerned. Thus, the mandatory requirement of providing of an opportunity to an employee has been violated by the respondents at the time of passing of the impugned order of recovery. In this view of the fact the writ petition on hand deserves to be considered.

6.Accordingly, the present writ petition is a fit case for remittance. Thus, the impugned order of recovery passed by the second respondent in letter dated 22.12.2014, is set aside and the respondents are directed to issue show cause notice to the petitioner, setting out the details and on receipt of explanation and by providing an opportunity to the petitioner, a speaking order shall be passed, within a period of twelve weeks thereafter.

7.Accordingly the writ petition stands allowed. Consequently, the connected Miscellaneous Petition is closed. However, there shall be no order as to costs.

ah

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Chief Education Officer,
Collector Office,
Dharmapuri.

2.The Headmaster,
Government Higher Secondary School,
Linganayakkanhalli,
Dharmapuri District.

+1cc to Government Pleader Sr.No.35894

+1cc to Mr.S.Hemanand, Advocate Sr.no36027

KJI (CO)
sm:20.6.2018

W.P.No.779 of 2015



WEB COPY