

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.1609 of 2018

W.M.P.Nos.2020 and 2021 of 2018

S.Babushankar

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Petitioner

-vs-

1. The Director of Elementary Education
College Road
Chennai-6
2. The District Elementary Educational Officer
Coimbatore District
Coimbatore
3. The Additional Assistant Elementary Educational Officer
Sulur Panchayat Union
Sulur, Coimbatore District .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the third respondent in relation to his proceedings issued in Na.Ka.No.1304/A2/2017 dated 7.11.2017 and quash the same and issue a consequential direction to the respondents to grant incentive increments to the petitioner for acquiring M.Sc degree in Computer Science and B.Ed continuously with arrears.

For Petitioner :: Mr.R.Saseetharan

For Respondents :: Mr.P.Raja
Government Advocate

ORDER

This writ petition has been directed against the impugned order dated 7.11.2017 issued by the Additional Assistant Elementary Educational Officer, Sulur in Coimbatore District seeking to recover the incentive increments already paid to the petitioner, without notice.

2. Learned counsel for the petitioner, reading the impugned order, submitted that nowhere the proceeding seeking recovery

mentions any notice having been given calling upon the petitioner to submit his explanation. That shows that the respondents are seeking to recover the incentive increments already paid to him for acquiring the higher qualification, without following the principles of natural justice.

3. I could also see from the impugned order that the petitioner was not put on notice. As the principles of audi alteram partem has not been complied with, the respondents cannot straightaway proceed to recover the incentive increments which was already paid to the petitioner for acquiring the higher qualification. The impugned order also further shows that what was granted to the petitioner as incentive increment was cancelled, again without notice. Therefore, the impugned order is liable to be interfered with, he pleaded.

4. The learned Government Advocate, taking notice on behalf of the respondents, submitted that the impugned proceedings seeking to recover the incentive increments already paid without notice, may be treated as a notice and then the petitioner may be given two weeks time to submit his explanation to the third respondent with a further direction to the third respondent to consider his explanation on merits and thereafter to pass an order in accordance with law within a period of three weeks thereafter.

5. Agreeing with his request, this Court, disagreeing with the mode adopted by the third respondent in recovering the incentive increments already paid to the petitioner, hereby directs both the parties to treat the impugned proceeding as a notice and the petitioner is given two weeks time from the date of receipt of a copy of this order to submit his explanation to the third respondent, who will also, on receipt of the explanation from the petitioner, consider the entire case of the petitioner on merits and then shall pass appropriate orders in accordance with law within a period of four weeks thereafter. Till then, the respondents shall not proceed with the impugned recovery. The writ petition stands disposed of accordingly. Consequently, W.M.P.Nos.2020 & 2021 of 2018 are closed. No costs.

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Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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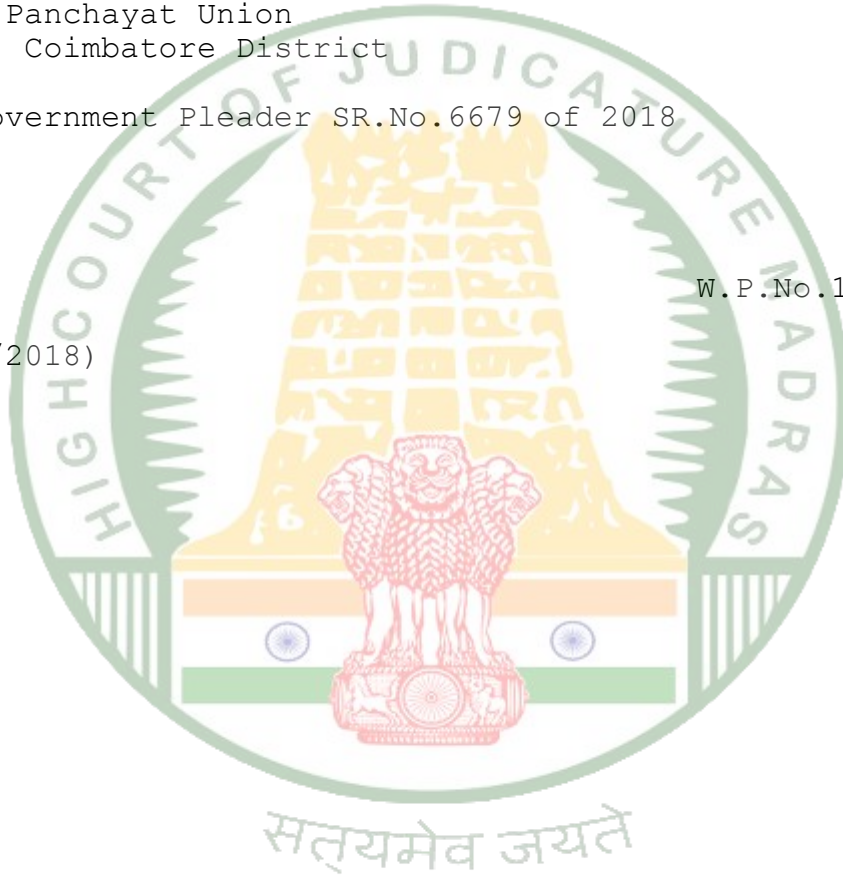
To

1. The Director of Elementary Education
College Road
Chennai-6
2. The District Elementary Educational Officer
Coimbatore District
Coimbatore
3. The Additional Assistant Elementary Educational Officer
Sulur Panchayat Union
Sulur, Coimbatore District

+1cc to Government Pleader SR.No.6679 of 2018

W.P.No.1609 of 2018

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