



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2018

CORAM:

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**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

**W.A(MD)No.938 of 2018
and
C.M.P. (MD) .No.6140 of 2018**

1. The Principal Secretary to the Government
School Education Department,
St. George Fort, Chennai.
2. The Director of Elementary Education,
Office of the Director of Elementary Education,
D.P.I Campus, College Road, Chennai-600 006.
3. The District Elementary Educational Officer,
Tirunelveli District,
Tirunelveli.
4. The Additional Assistant Elementary
Educational Officer,
Thenkasi Taluk,
Tirunelveli District.

:Appellants/Respondents

.vs.

M.Dhanalakshmi

:Respondent/writ petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent as against the order passed by this Court in W.P(MD)No.4332 of 2015, dated 05.04.2017.

Prayer in WP(MD)No. 4332 of 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records pertaining to impugned proceedings in Na.Ka.No.783/A2/2014 dated 27.11.2014 and consequential proceedings in Na.Ka.No. 783/ A2/2014 dated 20.01.2015 passed by the 4th respondent and quash the same.

For Appellants
<https://hcservices.ecourts.gov.in/hcservices/>

For Respondent

:Mr.A.K.Baskara Pandian
Special Government Pleader
:Mr.D.Sasikumar

**JUDGMENT***********

[Judgment of the Court was made by **K.RAVICHANDRABAABU, J.**]

This Writ Appeal is directed against the order made in W.P (MD) No.4332 of 2015, dated 05.04.2017.

2.The appellants are the respondents before the Writ Court. The respondent herein as the writ petitioner challenged the proceedings of the Additional Assistant Elementary Educational Officer, dated 27.11.2014 and 20.01.2015, wherein and whereby the incentive increment given to the writ petitioner was sought to be recovered on the ground that the same was issued to the petitioner for acquiring B.Ed., degree qualification. The writ court, after considering the facts and circumstances of the case and hearing both the parties, allowed the writ petition by setting aside the impugned orders. Now, the writ appeal is filed challenging the order passed by the Writ Court.

3.Heard the learned Special Government Pleader appearing for the appellants and Mr.D.Sasikumar, who takes notice for the respondent.

4.The Writ Court has chosen to allow the writ petition and set aside the impugned orders on the reason that it is only the department, which has given incentive increment to the writ petitioner, taking into consideration of the acquiring of B.Ed degree qualification. It is also found by the writ court that such benefit was given to the petitioner for long number of years and the writ petitioner got digested the benefit derived out of such extension of incentive increment. Now, after a long number of years, the said amount is sought to be recovered from the writ petitioner on the contention that the same was wrongly given to the writ petitioner.

5.Admittedly, before passing the impugned proceedings, the petitioner was not given an opportunity of hearing by issuing a notice. Therefore, on the ground of violation of principles of natural justice also, the proceedings of the appellants cannot be sustained. We are also not inclined to remit the matter back to the appellants for considering the matter afresh, since the increment given to the writ petitioner was already utilized by her and having digested such benefits, it is not fair on the part of the respondent to wake up at later point of time and issue the impugned proceedings. Therefore, leaving all the questions raised herein left open to be agitated in an appropriate proceedings, we are not inclined to entertain the writ appeal. Accordingly, the



writ appeal fails and the same is dismissed. No costs.
Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AS)

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Sub Assistant Registrar(CS-II)

To

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4. The Additional Assistant Elementary
Educational Officer,
Thenkasi Taluk,
Tirunelveli District.

+1cc to Mr.D.Sasikumar , Advocate Sr.No.72971

+1cc to Spl.Government Pleader Sr.No.72904

VS

VB/SKN/RSK/SAR2/27.07.2018/3P/7C

JUDGMENT MADE IN
W.A(MD)N.938 of 2018
and
C.M.P. (MD) .No.6140 of 2018
13.07.2018