



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.2408 of 2011

and

MP(MD)Nos.1 and 2 of 2011

S.Sundaraj

... Petitioner

Vs.

1.The Accountant General,  
Office of the Accountant General,  
(Accounts & Entitlements)  
261, Anna Salai, Chennai.

2.The Director of Elementary School Education,  
Directorate of Elementary School Education,  
D.P.I.Complex, College Road, Chennai.

3.The District Elementary Educational Officer,  
Tirunelveli District, Tirunelveli,

4.The Additional Assistant Elementary Educational Officer,  
Alangulam,  
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by 4<sup>th</sup> respondent dated 26.11.2010 in Na.Ka.No.1043/A4/2010 and quash the same and direct the respondents to restore the revised scale of pay to the petitioner in Special grade Scale of pay in the post of Middle School Headmaster from 01.08.1997 and continue to pay pension in accordance with the revised scale of pay.

For Petitioner : Mr.N.Dilip Kumar

For Respondent - 1 : Mr.P.Gunasekaran

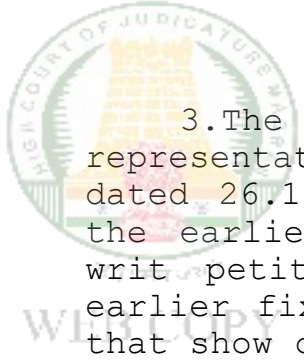
For Respondents 2-4 : Mr.M.Muthu,

Additional Government Pleader,

#### ORDER

The order passed by the fourth respondent in proceedings dated 26.11.2010 in respect of the revision of scale of pay, is under challenge in this writ petition.

2.The Writ petitioner was holding the post of Middle School Headmaster and retired from service on 30.06.2009. However, for the purpose of getting benefit of re-fixation, the writ petitioner earlier filed WP(MD)No.5385 of 2010 and this Court by order dated 20.04.2010, directed the respondents to consider the case of the writ petitioner.



3.The grievance of the writ petitioner is that based on the representation submitted by the writ petitioner, the order impugned dated 26.11.2010, has been passed imposing recovery by cancelling the earlier re-fixation without providing any opportunity to the writ petitioner. Since the fourth respondent had cancelled the earlier fixation and imposed recovery, this Court is of an opinion that show cause notice ought to have been issued seeking explanation from the writ petitioner and by providing opportunity to defend his case. Thus, the impugned order is in violation of the principles of natural justice. In this short ground, the impugned order passed by the fourth respondent in proceedings dated 26.11.2010 is quashed and the matter is remitted back to the fourth the respondent for issuance of show cause notice and by providing opportunity to the writ petitioner and on receipt of his explanation consider the same and pass appropriate orders on merits and in accordance with law, within a period of the four months from the date of the receipt of the copy of this order.

4.Accordingly, the writ petition stand allowed. However, there shall be no orders as to costs. Consequently, MP(MD)Nos.1 and 2 are closed.

Sd/-  
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

- 1.The Accountant General,  
Office of the Accountant General,  
(Accounts & Entitlements)  
261, Anna Salai, Chennai.
- 2.The Director of Elementary School Education,  
Directorate of Elementary School Education,  
D.P.I.Complex, College Road, Chennai.
- 3.The District Elementary Educational Officer,  
Tirunelveli District, Tirunelveli.
- 4.The Additional Assistant Elementary Educational Officer,  
Alangulam, Tirunelveli District.

+1cc to Special Government Pleader, SR.No. 44582  
+1cc to M/S.P.Gunasekaran, Advocate SR.No. 44247  
+1cc to M/S.N.Dilip Kumar, Advocate SR.No. 43906

ORDER MADE IN  
W.P (MD) No2408. of 2011  
24.01.2018