



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P (MD) No.3298 of 2011
and
MP (MD) Nos.1 and 2 of 2011

C.Veerapandi

... Petitioner

Vs.

The Assistant Elementary Educational Officer,
Office of the Assistant Elementary Educational Officer,
Kamuthi,
Ramanathapuram District.

... Respondent

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 in respect of the order Na.Ka.No. 1187/a3/09 dated 03.03.2010 issued by the respondent and quash the same and direct the respondent not to deduct the amount mentioned in the impugned order.

For Petitioner : Mr.R.Lakshmanan

For Respondents : Mr.R.Sethuraman,
Special Government Pleader

ORDER

The order of recovery issued by the respondent in proceedings dated 03.03.2010 is under challenge in this writ petition.

2.The writ petitioner was initially appointed as a Secondary Grade Teacher at Panchayat Union Elementary School, Manicka Nagar, Kadaladi Taluk, Ramanathapuram District on 28.07.1997 and further promoted to the post of the Graduate Assistant with effect from 27.11.2006. When the writ petitioner was working as Graduate Assistant, the Assistant Elementary Educational Officer, Kamuthi issued the impugned order in proceedings dated 03.03.2010, directing the writ petitioner to reimburse a sum of Rs. 28,705/-, which was granted by way of an increment to the writ petitioner and the incentive increment was granted to the writ petitioner for acquiring the educational qualifications of M.Ed. The Respondent found that the incentive increment granted was not in accordance



with the Government orders in force.

3. The learned counsel for the writ petitioner made submissions that there was no misrepresentation on the part of the writ petitioner and the incentive increment was given at the instance of the respondent for which the writ petitioner cannot be penalised. This apart, the impugned order of recovery was issued without issuing any show cause notice or any opportunity of hearing to the writ petitioner. Therefore the same is in violation of the principles of natural justice.

4. May that it be, this Court is of an opinion that there was no misrepresentation or otherwise on the part of the writ petitioner nor any undertaking was given by the writ petitioner at the time of disbursement of the incentive increment for acquiring M.Ed, Degree. The learned counsel for the petitioner states that the incentive increment granted was already stopped and therefore the recovery order should not have been issued.

5. In this view of the matter, the recovery order issued without notice cannot be sustained. Any order passed by the competent authorities affecting the rights of an employee has to be passed only by providing opportunities and on this ground, the impugned order is liable to be scrapped. Accordingly, the order passed by the respondent in proceedings in Na.Ka.No.1187/A3/09, dated 03.03.2010 is quashed and the writ petition stands allowed. However, there shall be no orders as to costs. Consequently, MP (MD) Nos. 1 and 2 of 2011 are closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

The Assistant Elementary Educational Officer,
Office of the Assistant Elementary Educational Officer,
Kamuthi,
Ramanathapuram District.

+ 1 cc TO Mr.R.Lakshmanan , Advocate in SR No. 44952
+ 1 cc TO The Special Government Pleader in SR No. 45176

dsk

AE/KKR/SAR2/15.02.2018/2P/4C