

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.1099, 1108 & 1112 of 2019
and

WMP.Nos.1245, 1246, 1262, 1264, 1256 & 1258 of 2019

1. A.Paul Peter Petitioner in WP.No.1099/2019
2. V.Srinivasan Petitioner in WP.No.1112/2019
3. Maria Stephan Petitioner in WP.No.1108/2019

Vs

1. State of Tamil Nadu,
rep. by its Secretary,
Education Department,
Fort St.George,
Chennai-9.
2. The Director of School Education,
Chennai-6.
3. The District Educational Officer,
Erode District. 1 to 3 Respondents in
all writ petitions

4. The Correspondent,
St.Sebastian's Aided High School,
Andiyur Taluk,
Erode District-638 505.
... 4th Respondent in WP.Nos.1099&1112/2019
5. The Correspondent,
St.Michael's Aided High School,
Andiyur Taluk,
Erode District-638 505.
... 4th Respondent in WP.No.1108/2019

6. The Regional Accounts Officer (Auditing),
School Education Department,
Coimbatore.

... 5th Respondent in all writ petitions

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ or order or orders or direction particularly in the nature of Writ of Certiorari, call for the records on the file of 5th respondent made in Na.Ka.No.2166/E7/2017, Na.Ka.No.1494/E7/2017 dated 31.12.2018 and quash the same.

For Petitioner : M/s.Selvi George

For Respondent : Mr.A.Rajaperumal
Addl.Government Pleader
for R1-R3, R5
(for all the writ petitions)

COMMON ORDER

The order of recovery issued by the 5th respondent in proceeding dated 31.12.2018 is under challenge in the present writ petition.

2. The learned counsel for the writ petitioner states that the writ petitioner was appointed as Secondary Grade Teacher on 01.11.1996. The Government issued orders in G.O.Ms.No.155, School Education Department, dated 03.10.2002 for B.Ed qualified candidates appointed up to 19.05.1998 in regular sanctioned post can be approved and they have to undergo one month training in Child Psychology in the concerned District Institute of Education and Training. It is further ordered that, those candidates were given relaxation for not having the required qualifications fixed under Rule 15(6) of the Tamil Nadu Recognized Private School Regulation Rules, 1974.

3. Thus, the salary paid to the writ petitioner was in accordance with the Government orders in force during the relevant point of time and the recovery order is liable to be scrapped. The learned counsel for the writ petitioner further urged this Court by stating that, no show-cause notice or opportunity was given to the writ petitioner enable him to submit his representations/objections in these issues.

4. The learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 is also unable to substantiate

such a show-cause notice which is mandatory had been issued by the Competent Authorities by providing an opportunity to the writ petitioner before passing the impugned order. In this view of the matter, the impugned order passed by the 5th respondent in proceeding Nos.Na.Ka.No.2166/E7/2017, Na.Ka.No.1494/E7/2017 dated 31.12.2018 is quashed.

5. The respondents are directed to issue a show-cause notice to the writ petitioners setting out all the details within a period of 4 weeks from the date of receipt of a copy of this order. On receipt of the show-cause notice, the writ petitioners are directed to submit their representations/objections along with the relevant Government orders within a period of 2 weeks from the date of receipt a copy of the show-cause notice. On receipt of the explanations, the Competent Authorities/respondents are directed to consider the materials available on records along with the objections raised by the writ petitioners and pass orders on merit and in accordance with law within a period of 12 weeks there from.

6. Accordingly, the writ petition stands allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Pkn
To

1. The Secretary,
State of Tamil Nadu,
Education Department,
Fort St.George, Chennai-9.
2. The Director of School Education,
Chennai-6.
3. The District Educational Officer,
Erode District.
4. The Regional Accounts Officer (Auditing),
School Education Department, Coimbatore.

+3 cc's to M/s.Selvi George, Advocate Sr.No.11792 to 11794
+1 cc to The Government Pleader, Sr.No.12841

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CSL/14.03.2019