



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2019

CORAM

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD)No.9250 of 2010
and
M.P. (MD)Nos.1 to 3 of 2010

M.Ponnuchamy

:Petitioner

vs.

- 1.The Assistant Elementary Educational Officer,
Melur, Madurai District.
- 2.The District Elementary Educational Officer,
Madurai District, Madurai.
- 3.The Government of Tamil Nadu,
represented by the Secretary, Education Department,
Secretariat, Chennai.
- 4.The Rehabilitation Council of India,
23A, Sivaji Marg Cheer Karanpura Complex,
New Delhi - 10015.
- 5.The Indira Gandhi College of Special Education,
Holy Cross Campus, Kanuvai,
Coimbatore - 641 108.

:Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue Writ of Certiorari, to call for the records relating to the proceedings in Na.Ka.No.1190/Aa/10, dated 08.07.2010 on the file of the first respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For R1 to R3 : Mr.N.Shanmuga Selvam
Additional Government Pleader

For R2 to R5 : No Appearance

ORDER

This Writ Petition is filed to issue a Writ of Certiorari, to quash the proceedings of the first respondent, dated 08.07.2010.



2.By impugned order, dated 08.07.2010, the incentive increment granted to the petitioner for acquiring higher qualification from 2003 was withdrawn and the petitioner was directed to refund the incentive increment granted to him from 30.12.2003 to 30.06.2010.

3.It is admitted before this Court that before passing the order withdrawing the incentive increment and directing recovery of amount paid to the petitioner by way of incentive increment, the first respondent has not issued any show cause notice or afforded any opportunity to the petitioner. Hence, the impugned order is in violation of principles of natural justice.

4.It is stated in the impugned order that the petitioner's qualification, namely, B.Ed (Special Education) is not equivalent to regular B.Ed. (General Education) and that therefore, a person with B.Ed (Special Education) is not even eligible to be considered, even in the case of appointment, on par with persons, who have B.Ed (General Education). However, it is stated that the petitioner had acquired B.Ed. (Special Education), which according to the petitioner is equivalent to regular B.Ed (General Education).

5.The learned Counsel for the petitioner has produced before this Court, the Government Order, vide, G.O.Ms.No.56, dated 24.04.2012 and submitted that the petitioner would have convinced the respondents, as to his eligibility to get incentive increment for having higher qualification, if sufficient opportunity is given to the petitioner. Since it is admitted that the order impugned is in violation of principles of natural justice, this Court is inclined to set aside the impugned order and remit the matter back to the respondents.

6.As a result, this Writ Petition is allowed and the impugned order passed by the first respondent, dated 08.07.2010 is set aside. The learned Additional Government Pleader submitted that the second respondent has to pass appropriate orders. Hence, the matter is remitted to the second respondent for fresh consideration and the second respondent is directed to issue show cause notice to the petitioner regarding stoppage of increment or recovery of any amount, that was already granted to the petitioner and after hearing the petitioner, consider the matter and pass orders on merits afresh. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Assistant Elementary Educational Officer,
Melur, Madurai District.

2.The District Elementary Educational Officer,
Madurai District, Madurai.

3.The Secretary, Education Department,
The Government of Tamil Nadu,
Secretariat, Chennai.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-95288[F] dated
31/10/2019)

W.P. (MD)No.9250 of 2010
30.10.2019

JMN(12.11.2019) 3P : 5C