



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE **D. KRISHNAKUMAR**

WP(MD)No.13000 of 2019 and
WMP(MD).Nos.9691 and 9692 of 2019

C. Jeyanthi

... Petitioner

Vs.

1. The Director of Elementary Education,
DPI Complex, College Road,
Chennai - 6.

2.The Chief Educational Officer,
O/o. the Chief Educational Officer,
Tuticorin District.

3.The District Educational Officer,
O/o. the District Educational officer,
Kovilpatti,
Tuticorin District.

4.The Block Educational Officer,
Kovilpatti,
Tuticorin District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the record pertaining to the impugned order in Na.Ka.No.6091/E3/2019, dated 31.05.2019 on the file of the respondent No.1 and the consequential impugned order in Na.Ka.No.2371/Aa1/2019, dated 04.06.2019 on the file of the respondent No.3 and quash the same as illegal.

For Petitioner : Mr. T. Lajapathi Roy

For Respondents : Mrs. S. Srimathy

Special Government Pleader

ORDER

This Writ Petition has been filed seeking to call for the records pertaining to the impugned order in Na.Ka.No.6091/E3/2019, dated 31.05.2019, on the file of the 1st respondent and the consequential impugned order in Na.Ka.No.2371/Aa1/2019, dated 04.06.2019 on the file of the 3rd respondent and quash the same.

According to the petitioner, she was appointed in the post of B.T. Assistant on 12.09.2005 at Samaputhur Panchayat Union Middle School and subsequently, she was promoted as Headmaster at



Panchayat Union Middle School, Idaivasal, Kovilapatti Union, Tuticorin District. She was joined in the said school on 07.03.2019. While the petitioner was working as a Headmaster and receiving the salary in the said post, the first respondent without providing an opportunity of hearing to the petitioner, has reverted her as B.T. Assistant by issuing impugned order dated 31.05.2019, based on the complaint preferred by a teacher viz., A. Sivagnanasundari stating that the said promotion granted to the petitioner was against the Rules. Consequently, the 3rd respondent issued the impugned order dated 04.06.2019. Challenging the said orders, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submitted that the first respondent has passed the impugned order, dated 31.05.2019 reverting the petitioner back to the post of B.T. Assistant without providing an opportunity of hearing to the petitioner.

4. The learned Special Government Pleader appearing for the respondents filed a detailed affidavit and submitted that it has been specifically stated in G.O.368, Personnel and Administrative Reforms Department, dated 18.10.1993, that "I preparation of estimate of vacancies" Rule 2(1) (iii) and (iv) is applicable. In Sub Rule (iii) it has been stated that the panel ought to be reckoned for 12 months from the date following the crucial date. In Sub Rule (iv) it has been stated ingredients for estimates and mode of preparation of estimates, in which it has been stated that "However vacancies which are likely to arise after the panel year should not be considered vacancies should be reckoned only in the next panel year. Nevertheless, where a panel is prepared after the relevant panel year, only the actual number of vacancies which really arose should be reckoned. He would further submit that in the light of the aforesaid Rule the petitioner is entitled to the said promotion from the 2019 panel, but, the said promotion has been wrongly granted to the petitioner in the panel of 2018 and hence, the first respondent has passed the reversion order against the petitioner.

5. I have heard the learned counsel appearing on either side and perused the materials available on record.

6. The petitioner was promoted to the post of Headmaster from the post of B.T. Assistant and she had joined in the said post and served as a Headmaster. In the meantime, the impugned order has been passed and without providing an opportunity of hearing to the petitioner and by violating the principles of *Audi Alteram Partem*. The respondents ought to have granted opportunity to the petitioner, before passing the impugned order. The petitioner being aggrieved, is entitled for making her explanation before the authority concerned, under the Rules. In the light of the aforesaid principles laid down by this Court in various decisions, this Court is of the view that the impugned order passed by the



respondents 1 and 3 need interference and therefore, the said impugned orders are liable to be quashed and accordingly, the same are quashed.

7. In the result, this Writ Petition is allowed and the impugned orders are quashed. The matter is remitted back to the authority concerned and the authority concerned is directed to pass appropriate orders, after providing an opportunity of hearing to the petitioner as well as the aggrieved parties, on merits and in accordance with law, as expeditiously as possible, in any event not later than six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Crl Side)

// True Copy //

Sub Assistant Registrar(CS)

trp

To

1. The Director of Elementary Education,
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+1CC TO MR.T.LAJAPATHI ROY, Advocate Sr. No.71978
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.72138

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MR (CO)