



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.06.2019
CORAM

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P (MD) Nos.13635 to 13637 of 2019
and
WMP (MD) Nos.10211 to 10213 of 2019

S. Shanmugam ... Petitioner in WP (MD) No.13635/2019
A. Annadurai ... Petitioner in WP (MD) No.13636/2019
M. Udhaya ... Petitioner in WP (MD) No.13637/2019

vs.

1. The Director of Collegiate Education,
O/o. the Director of Collegiate Education,
Chennai - 6.
2. The Joint Director of Collegiate Education,
O/o. the Joint Director of Collegiate Education,
Madurai Region, Madurai - 625 020.
3. The Principal,
Mannar Duraisingam Government Arts College,
Sivagangai,
Sivagangai District. ... Respondents in all W.Ps.

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the impugned order issued by the 3rd respondent in his impugned proceedings in Na.Ka.No.540/Aa/2019 dated 29.05.2019 and quash the same as illegal.

For Petitioners : Mr. Mohammed Imran
for M/s. Ajmal Associates

For R1 & R2 : Mr. Aayiram K. Selvakumar
Additional Government Pleader
in all the writ petitions.

COMMON ORDER

These writ petitions have been filed seeking to quash the impugned recovery proceedings of the third respondent in Na.Ka.No.540/Aa/2019 dated 29.05.2019.



2. Heard the learned counsel for the petitioners and the learned Additional Government Pleader for the respondents 1 and 2.

3. According to the petitioners, the petitioners are working as Lab Assistants and they have been awarded selection grade on 01.07.2013 and 02.04.2017 respectively, on completion of ten years of service in the cadre of Lab Assistants. While so, the third respondent, by the proceedings in Na.Ka.No.540/Aa/2019 dated 29.05.2019, revised the scale of pay of the petitioners on the ground that there is a discrepancy in conferring the selection grade pay and consequently ordered recovery. Further, by relying upon the Government letter dated 13.08.2018, the petitioners' scale of pay was revised, but the same has not been communicated to the petitioners. Moreover, no opportunity of hearing to the petitioners was given while passing the impugned order and therefore, the same is liable to be quashed on the ground of violation of principles of natural justice.

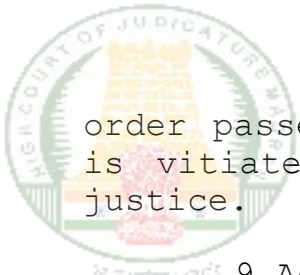
4. The learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that the petitioners have given undertaking letters to the third respondent stating that if any excess amount is paid by the respondents based on the revised pay scale, the same will be repaid by the petitioners in one installment. By placing the undertaking letter before the Court, the learned Additional Government Pleader has objected for quashment of the impugned order.

5. The short question involved in these writ petitions is as to whether the impugned order of recovery passed by the third respondent against the petitioners is sustainable?

6. There is no dispute on the side of the petitioners with regard to the undertaking letter given by them with reference to recovery of excess amount in one installment. But the petitioners have disputed the fact that no such excess amount was paid by the third respondent, and that too it was made based on a Government letter. The reason assigned by the third respondent for recovery is totally misconceived and if any opportunity was granted to the petitioners, they would have placed relevant explanation before the authority concerned and establish the fact that no excess payment is made.

7. The learned counsel appearing for the petitioners submitted that even now the petitioners are ready to appear before the authority concerned and submit their explanations with regard to recovery, provided, the respondents shall furnish the details of calculation of the excess payment made to the petitioners.

8. A perusal of the impugned order, it seems that there is no specific reason assigned as to how revision of scale of pay is effected. Further, before passing the impugned order, no opportunity of hearing was given to the petitioners. Therefore, the impugned



order passed by the third respondent is unsustainable and the same is vitiated on the ground of violation of principles of natural justice.

9. Accordingly, this Court is inclined to pass the following order:

(i) The impugned proceedings of the third respondent in Na.Ka.No.540/Aa/2019 dated 29.05.2019 is quashed and the matter is remitted to the third respondent for fresh consideration.

(ii) The third respondent is directed to furnish necessary particulars in so far as the excess payment made to the petitioners;

(iii) On receipt of such particulars, the petitioners shall submit their explanations before the third respondent and on receipt of such explanation, the third respondent shall proceed further and pass orders on merits and in accordance with law.

10. The writ petitions are allowed accordingly. No costs. Consequently, WMP(MD) Nos.10211 to 10213 of 2019 are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Director of Collegiate Education,
O/o.the Director of Collegiate Education,
Chennai - 6.

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O/o.the Joint Director of Collegiate Education,
Madurai Region, Madurai - 625 020.

3. The Principal,
Mannar Duraisingam Government Arts College,
Sivagangai,
Sivagangai District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate SR.Nos.71206,71209 &71210.
+1 CC to SPL GP SR-71137.

W.P(MD) Nos.13635 to 13637 of 2019
24.06.2019