



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.20010 of 2015

and

M.P. (MD) Nos.1 and 2 of 2015 and 934 of 2016

L.Devaraj

... Petitioner

-Vs-

1. The Finance Consultant and
Chief Accounts Officer,
Accountant General Officer,
Teynampet, Chennai-2.
2. The Director / Commissioner,
Adi Dravidar and Tribal
Welfare Department,
Chepauk, Chennai-600 005.
3. The District Adi Dravidar and
Tribal Welfare Officer,
The District Collectorate,
Nagercoil, Kanyakumari District.
4. The Headmaster,
Government Tribal Residential Higher
Secondary School,
Pechiparai, Kanyakumari District.

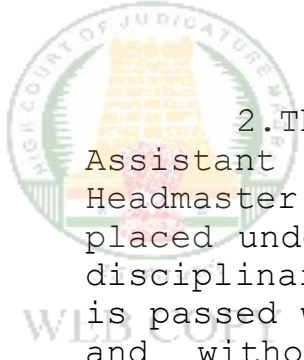
...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent in Ne.Mu.Ka.No.E1/14097/2013 dated 23.01.2015 quash the same and consequently, direct the respondents to disburse all the attended and pensionary benefits in accordance with law.

For Petitioner	: Mr.M.Subash Babu
For R1	: Mr.P.Gunasekarn
For R2 to R4	: Mr.D.Muruganantham, Additional Government Pleader.

ORDER

The order of recovery dated 23.01.2015 is sought to be quashed in the present Writ Petition.



2.The writ petitioner was holding the post of Graduate Assistant in Physics and thereafter, promoted to the post of Headmaster. On the eve of his retirement, the writ petitioner was placed under suspension, on account of initiation of departmental disciplinary proceedings. However, the impugned order of recovery is passed without providing any opportunity to the writ petitioner and without conducting any enquiry. Based on the audit objections, the impugned order of recovery was issued by stating that the writ petitioner in his capacity as the Headmaster collected some money from the students, which is impermissible.

3.Undoubtedly, the Headmaster in Government School cannot collect any money from the students, who are all studying in the school. However, the writ petitioner is entitled for an opportunity and further, enquiry is to be conducted with reference to the allegations set out in the impugned order as well as in the counter against the writ petitioner.

4.This being the factum, this Court is of the considered opinion that the present Writ Petition is a fit case for remand. Accordingly, the impugned order passed by the first respondent in Ne.Mu.Ka.No.E1/14097/2013, dated 23.01.2015 is quashed. The third respondent is directed to issue a show cause notice to the writ petitioner, setting out the facts and details, within a period of four weeks from the date of receipt of a copy of this order. On receipt of the show cause notice, the writ petitioner is directed to submit his explanation / objection along with documents, if any, within a period of three weeks from the date of issuance of the show cause notice to the competent authority / third respondent. Thereafter, the competent authority / third respondent is directed to consider the materials available on record as well as the explanation, if any, submitted by the writ petitioner, take a decision and pass order on merits and in accordance with law, within a period of four weeks therefrom.

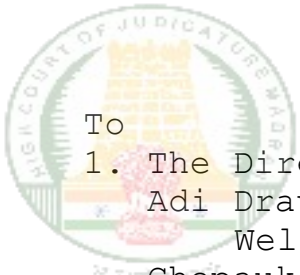
5.With these directions, this Writ Petition stands allowed. No costs. Consequent, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)



To

1. The Director / Commissioner,
Adi Dravidar and Tribal
Welfare Department,
Chepauk, Chennai-600 005.

WEB COPY

2. The District Adi Dravidar and
Tribal Welfare Officer,
The District Collectorate,
Nagercoil, Kanyakumari District.

3. The Headmaster,
Government Tribal Residential Higher
Secondary School,
Pechiparai, Kanyakumari District.

+ 1 CC to Mr.M.Subash Babu, Advocate in SR.No.70263
+ 1 CC to Mr.P.Gunasekaran, Advocate in SR.No.70165
+ 1 CC to The Special Government Pleader SR.No.70250

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