



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2020

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.5262 of 2020

and

W.M.P(MD)Nos.4581 and 4583 of 2020

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S.Selvi Greeta Annamuthu

.. Petitioner

Vs.

1.The State of Tamil Nadu
rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai - 600 009.

2.The Director of Elementary Education,
College Road, Chennai - 600 006.

3.The District Educational Officer,
Tiruchendur, Tuticorin District.

4.The Block Development Officer,
Alwarthirunagari Union @ Thenthiruperai,
Tuticorin District.

5.The Accountant General,
Regional Office,
Madurai - 625 007.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the impugned proceedings issued by the 4th respondent herein vide proceedings in Na.Ka.No.578/Aa2/2018, dated 17.02.2020 and quash the same and pass such further or other orders.

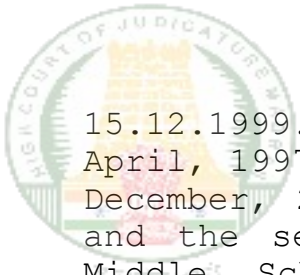
For Petitioner : Mr.A.Ajith Geethan

For Respondents 1 to 4 : Mr.N.Shanmugaselvam,
Additional Government Pleader.

ORDER

This writ petition has been filed for issuance of a Writ of Certiorari to call for the records relating to the impugned proceedings issued by the 4th respondent in Na.Ka.No.578/Aa2/2018, dated 17.02.2020 and quash the same.

2.The case of the petitioner is that the petitioner was initially appointed as a Secondary Grade Teacher on 10.09.1985. At that time, she possessed Diploma in Teacher Education (D.T.Ed.) qualification. She was promoted as Primary School Headmaster on



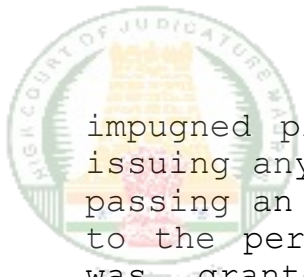
15.12.1999. In the meantime, she completed B.A. (Tamil) during April, 1997, M.A. (Tamil) during April, 2006 and B.Ed. degree during December, 2009. Based on the qualification of B.A. (Tamil) degree and the service of secondary grade teacher, she was promoted as Middle School Headmaster with Tamil Pandit qualification on 03.07.2006. Since the Middle School Headmaster is entitled to get one incentive increment for acquiring M.A. degree, as per G.O.Ms.No.42, Education Department, dated 10.01.1969, she got one set of incentive increment with effect from the date of promotion as Middle School Headmaster, i.e., 03.07.2006.

3. According to the petitioner, the 5th respondent has wrongly understood that the petitioner has received the incentive increment for M.A. degree in the cadre of Secondary Grade Teacher instead of Middle School Headmaster and instructed the 4th respondent to recover the excess payment and revise the pay, vide letter, dated 23.02.2018, upon which, the 4th respondent, without issuing any notice to the petitioner, has cancelled the existing incentive increment for acquiring M.A. degree and also directed to remit the excess amount which was wrongly paid by way of incentive increment w.e.f. 03.07.2006, vide proceedings, dated 11.04.2008. The petitioner submitted her explanation on 18.04.2018, upon which, the 4th respondent dropped the recovery process and continued the incentive increment. The petitioner made a representation on 16.09.2019 to the 5th respondent to cancel the audit objection entered in her service book. In these circumstances, the 4th respondent, without issuing any notice to the petitioner, passed the impugned proceedings, dated 17.02.2020, directing the petitioner to remit the amount of Rs.1,84,930/- for getting incentive increment for M.A. degree w.e.f. 03.07.2006 as per audit objection. Against which, the present writ petition has been filed.

4. The learned counsel for the petitioner submitted that the petitioner received incentive increment for M.A. degree in the cadre of Middle School Headmaster, but the 5th respondent has wrongly understood that she has received the same in the cadre of Secondary Grade Teacher. Before passing the impugned order, no notice was issued to the petitioner and no opportunity was given to her for raising her objections and hence, the impugned order is liable to be set aside.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 4 and perused the materials available on record.

6. The petitioner received the incentive increment for M.A. degree in the cadre of Middle School Headmaster. The 4th respondent passed the recovery order on basis of the audit objection. The petitioner challenges the same on the ground that before passing the impugned recovery order, no notice was issued to her. Perusal of



impugned proceedings shows that the same have been passed without issuing any notice to the petitioner. It is settled law that before passing an order against an employee, an opportunity should be given to the person concerned. Here, in this case, no such opportunity was granted to the petitioner before passing the impugned proceedings. It is the specific case of the petitioner that the incentive increment was given in the cadre of Middle School Headmaster, but the authority has misunderstood that it was given in the cadre of Secondary Grade Teacher. Therefore, this Court is inclined to interfere with the impugned order. Accordingly, the impugned order, dated 17.02.2020, passed by the 4th respondent is quashed and the matter is remanded back to the 4th respondent and the 4th respondent is directed to pass fresh orders on merits and in accordance with law, after issuing notice to the petitioner. The writ petition is allowed accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)

To

1.The Secretary,
Department of School Education,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.

2.The Director of Elementary Education,
College Road, Chennai - 600 006.

3.The District Educational Officer,
Tiruchendur, Tuticorin District.

4.The Block Development Officer,
Alwarthirunagari Union @ Thenthiruperai,
Tuticorin District.

+1 CC to M/s.SPL.GP (SR-12678[F] dated 20/03/2020)

+1 CC to M/s.A.AJITH GEETHAYAN, Advocate (SR-12430[F] dated 19/03/2020)

**ORDER MADE IN
W.P(MD)No.5262 of 2020**



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