



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.10931 of 2014

and

M.P(MD)No.2 of 2014

W.M.P(MD)No.3158 of 2016

WEB COPY

C.R.Maheswari

... Petitioner

Vs.

1.The State of Tamilnadu,
Represented by its Secretary,
Finance (Pay Cell Department),
Fort St.George, Chennai - 09.

2.The Joint Director (Vocational) of School Education,
College Road, Chennai - 06.

3.The Chief Educational Officer,
Madurai District, Madurai.

4.The District Educational Officer,
Usilampatti Educational Office,
Usilampatti, Madurai District.

5.The Head Master,
Government Girls Higher Secondary School,
Thirumangalam,
Madurai District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order of recovery in Na.Ka.No.7524/Aa3/2014, dated .06.2014, signed on 24.06.2014, on the file of the Respondent No.4 and quash the same as illegal.

For Petitioner : Ms.Tamilmalar
For Mr.T.Lajapathi Roy

For Respondents : Ms.S.Srimathy
Spl.Govt.Pleader

ORDER

The order of recovery issued by the 4th respondent in proceedings, dated 24.06.2014, is under challenge in the present writ petition.



2. The writ petitioner was appointed as Vocational Instructor at Government Girls Higher Secondary School, Thirumangalam. The Vocational Inspectors are treated on par with B.T.Assistants and the petitioner is receiving the scale of pay with effect from 01.01.2006.

3. The grievances of the writ petitioner is that based on the audit objection, the pay already granted to the writ petitioner was sought to be recovered.

4. The learned counsel appearing on behalf of the writ petitioner mainly contended that the impugned order of recovery was issued without issuing any show-cause notice and by providing opportunity to the writ petitioner. Thus, the impugned order of recovery is in violation of principles of natural justice.

5. This Court is of the considered opinion that any order affecting the service condition of the employee must be issued only after providing an opportunity to such employee. No order can be passed by the authorities without providing an opportunity to defend the case. The principles of natural justice requires an opportunity, which is mandatory. In the present case, the respondents are unable to establish that such an opportunity was provided to the writ petitioner. Thus, this Court is of the opinion that the case is to be remanded back for reconsideration by providing an opportunity to the writ petitioner.

6. Accordingly, the impugned order passed by the 4th respondent in proceedings Na.Ka.No.7524/Aa3/2014, dated 24.06.2014, is quashed and the matter is remanded back to the 4th respondent to issue show-cause notice setting out the facts and details and after receiving explanations from the writ petitioner, appropriate decision is to be taken as expeditiously as possible. The entire exercise is to be done within the period of 12 weeks from the date of receipt of a copy of this order. Accordingly the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To
1.The Secretary,
Finance (Pay Cell Department),
Fort St.George,
Chennai - 09.

2.The Joint Director (Vocational) of School Education,
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3.The Chief Educational Officer,
Madurai District,
Madurai.

4.The District Educational Officer,
Usilampatti Educational Office,
Usilampatti,
Madurai District.

5.The Head Master,
Government Girls Higher Secondary School,
Thirumangalam,
Madurai District.

+1 CC to Mr.T. LAJAPATHI ROY, Advocate (SR-19467[F] dated
08/10/2020)

W.P. (MD)No.10931 of 2014
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SMV (CO)
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