



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.11908 of 2014

and

MP (MD) No.1 of 2014

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R.Kannagi

... Petitioner

-Vs-

1.The District Elementary Educational Officer,
Tirunelveli District, Tirunelveli.

2.The Additional Assistant Elementary Educational Officer,
Keelapavur, Tirunelveli. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to impugned order passed by the second respondent by his proceedings, dated 01.07.2014 in Na.Ka.No.636/2/14 and quash the same.

For Petitioner

: Mr.N.Dilipkumar

For Respondents

: Mrs.S.Srimathy

Special Government Pleader

ORDER

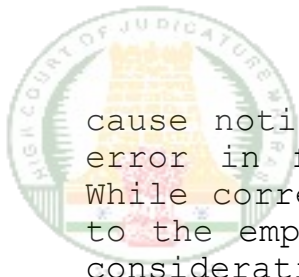
The impugned order of recovery, dated 01.07.2014, is under challenge in the present writ petition.

2.The petitioner is working as a Headmaster in Panchayat Union Primary School. The impugned order has been passed cancelling the earlier fixation of pay on the ground that the pay of the petitioner was erroneously fixed and consequential recovery was also imposed.

3.The learned counsel appearing for the petitioner states that the impugned order of re-fixation of pay and recovery has been issued without even issuing any show cause notice and opportunity to the writ petitioner. Thus, the impugned order is in violation of the principles of natural justice.

4.The learned Special Government Pleader appearing for the respondents is unable to establish that any such show cause notice or opportunity was provided to the writ petitioner.

5.Any order affecting the service conditions or monetary benefits of an employee, cannot be passed without issuing a show



cause notice and an opportunity to the employee. Undoubtedly, the error in fixation can be corrected by the authorities competent. While correcting such an error, a show cause notice is to be issued to the employee concerned and on receipt of the explanation and by consideration all the aspects and a speaking order to be passed.

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6. In this view of the matter, the impugned order passed by the second respondent in proceedings, dated 01.07.2014 in Na.Ka.No.636/2/14, is hereby quashed. The second respondent is directed to issue a show cause notice to the writ petitioner setting out the details and the reasons for re-fixation of pay in accordance with the rules in force. The said show cause notice has to be issued, 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/reply, within a period of two weeks from the date of receipt of the show cause notice. Thereafter, the second respondent is directed to consider the case on merits and in accordance with law and pass orders, within a period of twelve weeks, therefrom.

7. With these directions, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

To

1. The District Elementary Educational Officer,
Tirunelveli District, Tirunelveli.

2. The Additional Assistant Elementary Educational Officer,
Keelapavur, Tirunelveli.

+2 CC to Mr.N.DILIP KUMAR, Advocate (SR-22487,22716[F] dated 23/11/2020)

+1 CC to SPL GP (SR-23027[F] dated 26/11/2020)

W.P. (MD) .No.11908 of 2014
23.11.2020

VB (03.12.2020) 2P 6C