



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.12733 of 2014

V.Jothi Chandra

... Petitioner

Vs.

1.The State of Tamilnadu,
Rep. by its Secretary,
Department of School Education,
Fort St.George,
Chennai - 600 006.

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

3.The District Elementary Educational Officer,
Nagercoil,
Kanyakumari District.

4.The Assistant Elementary Educational Officer,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.650/Aa/2006, dated 29.06.2006 and the consequential impugned order of recovery in Na.Ka.No.650/E/2010, dated 02.11.2010, on the file of the Respondent No.4 and quash the same as illegal and consequently to refund the recovered amount to the tune of Rs.2,63,156/- at the current rate of interest within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Ms.S.Srimathi
Spl.Govt.Pleader

ORDER

The order of recovery is sought to be quashed in the present writ petition.

2. The writ petitioner was appointed as Junior Assistant and further promoted to the post of Middle School Headmaster and retired from service on 30.04.2006. The impugned order of recovery was issued based on the audit objections.



3. The learned counsel appearing on behalf of the writ petitioner made a submission that the impugned order of recovery was issued without providing any opportunity to the writ petitioner and no show-cause notice was issued.

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4. 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.

5. Accordingly, the impugned order of recovery passed by the 4th respondent in proceedings Na.Ka.No.650/E/2010, dated 02.11.2010, 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.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

MPK

To

1.The Secretary,
State of Tamilnadu,
Department of School Education,
Fort St.George,
Chennai - 600 006.

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

<https://hcservices.ecourts.gov.in/hcservices/>



3.The District Elementary Educational Officer,
Nagercoil,
Kanyakumari District.

4.The Assistant Elementary Educational Officer,
Nagercoil,
Kanyakumari District.

+1 CC to Mr.T. LAJAPATHI ROY, Advocate (SR-19463[F] dated
08/10/2020)

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SVN(CO)
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