



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

WEB COPY

W.P. (MD) No.15251 of 2014

and

M.P (MD) No.2 of 2014

A.Prince

... Petitioner

Vs.

1.The Director of Elementary Education,
D.P.I.Campus, College Road, Chennai - 06.

2.The District Elementary Educational Officer,
Thoothukudi, Thoothukudi District.

3.The Assistant Elementary Educational Officer,
Udankudi - 628 203, Thoothukudi 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 of recovery in Na.Ka.No.1619/Aa2/2014, dated 14.08.2014, on the file of the respondent No.2 and quash the same as illegal and consequently, to direct the respondent Nos.2 and 3 to continue to award two incentive increments in accordance with the proceedings in Moo.Mu.No.162/Aa2/2013, dated 17.05.2013, on the file of the Respondent No.3.

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

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

O R D E R

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

2. The writ petitioner is working as Headmaster and based on the audit objections, the impugned order of recovery has been passed.

3. The learned counsel appearing on behalf of the writ petitioner made a submission that no show-cause notice or opportunity was given to the petitioner enable him to defend his



case. Thus, the petitioner is constrained to move the present writ petition.

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 respondent is 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 passed by the 2nd respondent in Na.Ka.No.1619/Aa2/2014, dated 14.08.2014, is quashed and the matter is remanded back to the 2nd respondent to issue a 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 petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

- 1.The Director of Elementary Education,
D.P.I.Campus, College Road, Chennai - 06.
- 2.The District Elementary Educational Officer,
Thoothukudi, Thoothukudi District.
- 3.The Assistant Elementary Educational Officer,
Udankudi - 628 203, Thoothukudi District.

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-19466[F] dated 08/10/2020)

W.P. (MD) No.15251 of 2014

07.10.2020

MPK

SDS (19.10.2020) 2P-5C

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