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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021
CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 26864 of 2010
and
M.P. Nos. 1 and 2 of 2010
and
M.P. No. 1 of 2011

M.Chinnapalli ...Petitioner

-vs-

1. The Director of Elementary Education,
   Chennai - 600 006.

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

3. The Additional Assistant Elementary Educational Officer,
   Veppur,
   Perambalur District. ...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, praying to call for the records pertaining to the order passed by the First Respondent in his proceedings Na. Ka. No. 2200/C2/2010 dated 23.07.2010 and the consequential order passed by the Third Respondent in his proceedings No. 417/A2/2010 dated 08.09.2010 and quash the same, insofar as the Petitioner is concerned, and direct the Respondents to sanction selection grade and special grade to the Petitioner in the cadres of Headmaster of Elementary School with effect from 01.01.1991 with all consequential benefits.

For Petitioner : Mr. R.Ganesan for
M/s. C.S.Associates
For Respondents : Mrs. S.Mythreye Chandru,
Special Government Pleader

O R D E R
(through video conference)

Heard Mr. R.Ganesan, Learned Counsel for the Petitioner and Mrs. S.Mythreye Chandru, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

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2. The Writ Petition challenges the Order in Na. Ka. No. 2200/C2/2010 dated 23.07.2010 passed by the First Respondent and the consequential order in Na. Ka. No. 417/A2/2010 dated 08.09.2010 passed by the Third Respondent in which the Petitioner was called upon to refund the sum of Rs. 11,880/- excessively paid to him and to consequently direct the Respondents to sanction selection grade and special grade to the Petitioner in the cadres of Headmaster of Elementary School with effect from 01.01.1991 with all consequential benefits.

3. It is trite law that any administrative action which involves civil consequences must be made consistently with the rules of natural justice, meaning thereby that the person concerned must be informed of the case with supporting evidence against him and he must be given a fair opportunity to meet the case before an adverse decision is taken. The Government of Tamil Nadu in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 after referring to the principles laid down by the Hon'ble Supreme Court of India in State of Punjab -vs- Rafiq Masih (Whitewasher) [(2015) 4 SCC 334], has issued detailed instructions providing the manner in which any excess amount paid to Government Servants/Pensioners/Family Pensioners would have to be made.

4. It is not the case of the Respondents that before passing the impugned order for recovery towards excess payment claimed to have been made, any show cause notice had been issued to the Petitioner calling for an explanation from him with supporting documents materials relied in that regard. Such inherent flaw in decision-making by the Respondents is in violation of the principles of natural justice and would vitiate the impugned order. In that view of the matter, the impugned order dated 08.09.2010 passed by the Third Respondent is set aside, leaving it open to the concerned authorities to appropriately deal with the matter following due process.

5. If the concerned authorities intend to effect any recovery of excess payment of any monetary benefits from the Petitioner, it shall be incumbent upon them to issue show cause notice to him explaining how such claim has been made along with working-sheet of the calculation for that excess payment, and after affording full opportunity of personal hearing to the Petitioner and considering each of the objections that may be raised by him, a reasoned order shall be passed on merits and in accordance with law following the procedure laid down in the instructions in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 issued by the Government of Tamil Nadu, uninhibited and uninfluenced by the earlier order passed in the matter, and the decision taken shall be communicated to the Petitioner under written acknowledgement.

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In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vjt/skr

To

1. The Director of Elementary Education,
   Chennai - 600 006.

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

3. The Additional Assistant Elementary Educational Officer,
   Veppur,
   Perambalur District.

+1cc to the Government Pleader, S.R.No.69776

W.P. No. 26864 of 2010

SRII (CO)
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