



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2021

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.2957 of 2014
and M.P.No.2 of 2014

Ms.A.Queen Winifred Mary

..Petitioner

vs.

1.The Director of School Education,
College Road, Chennai-6.

2.The District Educational Officer,
Sankakiri, Salem District.

3.The Headmistress / Correspondent,
Fathima Girls Higher Secondary School,
Omalur, Salem District-636 455.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the entire records connected with the impugned order passed by the 3rd respondent vide Na.Ka.No.38/2012 dated 28.04.2012 and quash the same.

For Petitioner : M/s.S.N.Ravichandran

For Respondents : Mr.V.Nanmaran
Additional Government Pleader
for R1 and R2

Mr.T.Sellapandian (for R3)

O R D E R

The petitioner, challenging the impugned order of recovery dated 28.04.2012 passed by the third respondent, has filed the present writ petition.

2. The case of the petitioner is that she was appointed as Secondary Grade Teacher in the third respondent school, vide approval order passed by the third respondent dated 17.04.1997 and she is qualified with M.A. B.Ed. The



Government has passed an order in G.O.Ms.No.155, School Education (D2) Department dated 03.10.2002, by which candidates who were appointed as Secondary Grade Teachers to undergo one month child psychology training and in pursuant to the said Government Order, few other appointments were approved by the department with effect from 02.06.2003, but the respondent belated sent the petitioner for training from 05.12.2005 to 04.01.2006 and thereafter, her appointment has been approved by the second respondent w.e.f. 05.01.2006. After completion of 10 years of service, the petitioner was sanctioned Selection Grade increment by the second respondent, vide order dated 19.02.2007 with effect from 11.12.2006. While that being so, all of a sudden the third respondent by endorsement dated 21.09.2011 had revised the petitioner's pay w.e.f. 05.01.2006 in the scale of pay of Rs.4500-125-7000/- without any notice and thereafter, vide impugned proceedings of the third respondent dated 28.04.2012, recovery of Rs.2,83,562/- was ordered on the ground that the petitioner had been excessively paid from 05.01.2006 to 30.04.2012 and the petitioner has been directed to pay the same immediately. Challenging the same, the present writ petition has been filed.

3. Mr.S.N.Ravichandran, learned counsel for the petitioner would submit that the impugned order of recovery has been passed in violation of the principles of natural justice as the same has been passed without affording any opportunity to the petitioner and on that ground, the impugned order is liable to be set aside.

4. Mr.V.Nanmaran, learned Additional Government Pleader for the respondents has drawn the attention of this Court to the counter affidavit filed by the second respondent and would submit that as per G.O.Ms.No.155, School Education (D2) Department dated 03.10.2002, teachers appointed in the posts of Secondary Grade Teacher with higher qualifications from 11.07.1995 to 19.05.1998 had to be approved and they had to undergo one month training in Child Psychology and further, the said Government Order states that teachers appointed in the posts of Secondary Grade Teacher upto 19.05.1998 could be approved and their scale of pay had to be refixed after they complete one month Child Psychology Training, but in the case of the petitioner, the pay has been refixed by the third respondent school contrary to the aforesaid Government Order and in order to rectify the defects, the order of recovery was rightly passed by the third respondent and therefore prays for dismissal of this writ petition.

5. This Court has considered the submissions made and also perused the entire materials placed before it.

6. A perusal of the impugned order would disclose that there is no whisper about opportunity being granted to the petitioner and in the reference column, the proceedings of the



second respondent dated 18.04.2012 has been merely referred to and based on the said proceedings of the second respondent, the third respondent has passed the impugned order of recovery and therefore, this Court has no hesitation to hold that the impugned order is liable to be vitiated on the ground of violation of principles of natural justice.

7. Accordingly, this Writ Petition stand allowed and the impugned proceedings of the third respondent in Na.Ka.No.38/2012 dated 28.04.2012 is set aside and the matter is remitted back to the second respondent for fresh consideration of the claim of the petitioner, after providing opportunity to the petitioner and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Jvm

To

- 1.The Director of School Education,
College Road, Chennai-6.
- 2.The District Educational Officer,
Sankakiri, Salem District.
- 3.The Headmistress / Correspondent,
Fathima Girls Higher Secondary School,
Omalur, Salem District-636 455.

+1cc to M/s.S.N.Ravichandran, Advocate SR. No.68876

W.P.No.2957 of 2014

AD (CO)
PR (19/01/2022)