



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD) .No.7823 of 2013 and 221 of 2014

and

W.M.P. (MD) .Nos.2 and 3 of 2013

and

M.P. (MD) No.1 of 2014

T.Kanagaraj

...Petitioner in both W.Ps

.Vs.

1.The District Elementary Educational Officer,
Kanyakumari District.
Nagercoil - 629 001.

2.The Assistant Elementary Educational Officer,
Munchirai,
Puthukadai Post,
Kanyakumari District - 629 171.

3.The Correspondent,
St.Francis Primary School,
Vavarai, S.T.Mangad Post,
Kanyakumari District.

...Respondents in both W.Ps

Prayer in W.P(MD)No.7823 of 2013: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, to call for the records in connection with the impugned order passed by the second respondent vide his Letter No. Nil, dated 09.02.2013 and quash the same as illegal.

Prayer in W.P(MD)No.221 of 2014:Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned order passed by the 2nd respondent in A.Te.Mu.No.235/Aa/2012, dated 16.08.2012, quash the same and consequently, directing the respondents 1 to 3 herein to re-fix the scale of pay of the petitioner as Rs.15600 - 39100 + 5400 in the post of Primary School Headmaster(Selection Grade) by exercising re-option.

For Petitioner in
in both W.Ps
For R1 & R2
in both W.Ps

: Mr.S.Bharathy Kannan
: Mr.M.Linga Durai
Government Advocate



COMMON ORDER

The Writ Petition in W.P.(MD).No.7823 of 2013 is filed for issuance of a Writ of Certiorarifi, to quash the impugned order passed by the second respondent dated 09.02.2013.

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2.The Writ Petition in W.P.(MD)No.221 of 2013 is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the second respondent in A.Te.Mu.No.235/Aa/2012, dated 16.08.2012 and to the respondents 1 to 3 herein to re-fix the scale of pay of the petitioner as Rs.15600 - 39100 + 5400 in the post of Primary School Headmaster (Selection Grade) by exercising re-option

3.The orders impugned in these writ petitions are the orders passed by the second respondent, dated 09.02.2013 and 16.08.2012, which is in nature of recovery affecting the petitioner's right. It is indicated in the impugned orders that the petitioner's salary granting selection grade with effect from 01.06.2009 is wrong and that by the impugned orders the mistake is sought to be remedied. Before passing the impugned orders, it is admitted that no show cause notice was issued to the petitioner.

4.In such circumstances, this Court is of the view that the impugned orders can be set aside on the ground of violation of principles of natural justice, so that the second respondent may pass orders afresh after issuing a show cause notice and after affording an opportunity of personal hearing to the petitioner.

5.Without going into the merits of the case, this Court quash the impugned orders passed by the second respondent, dated 09.02.2013 and 16.08.2012 and the writ petitions to that extent are allowed. However, liberty is given to the second respondent to proceed the matter afresh and to pass appropriate orders, after issuing a show cause notice and hearing the objections. The second respondent shall pass orders afresh on merits and in accordance with law, within a period of eight weeks from the date or receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

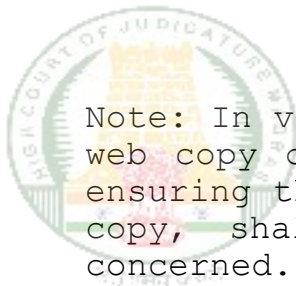
Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Sn/Ns



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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To
1.The District Elementary Educational Officer,
Kanyakumari District.
Nagercoil - 629 001.

2.The Assistant Elementary Educational Officer,
Munchirai,
Puthukadai Post,
Kanyakumari District - 629 171.

+1 CC to M/s.S.BHARATHY KANNAN, Advocate (SR-31711[F] dated
08/10/2021)

+1 CC to M/s.SPL.GP (SR-31775[F] dated 08/10/2021)

W.P.(MD).No.7823 of 2013 and 221 of 2014

and

W.M.P.(MD).Nos.2 and 3 of 2013

and

M.P.(MD)No.1 of 2014

07.10.2021

KS (CO)

GC/PM(01.11.2021) 3P 5C