



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2021

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD)No.7723 of 2021

and

W.M.P. (MD)Nos. 5879 and 5882 of 2021

T.Muthuraman

... Petitioner

Vs.

1.The Director of Elementary Education,
DPI Campus, College Road,
Chennai-600 006.

2.The Chief Educational Officer,
Thanjavur District,
Thanjavur.

3.The District Educational Officer,
Kumbakonam Education District,
Kumbakonam,
Thanjavur District.

4.The Block Educational Officer,
Thirupanandal Block,
Thanjavur District.

5.The Correspondent,
Alhilal Muslim Aided Middle School,
Thathuvancheri,
Thirupanandal Taluk,
Thanjavur District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorari, to call for the records relating to the impugned proceedings issued by the fourth respondent in Na.Ka.No.45/A1/2021 dated 17.03.2021 and to quash the same.

For Petitioner : Mr.G.Sankaran

For Respondents 1 to 3 : Mr.N.Shanmugaselvam
Additional Government Pleader

**ORDER**

Heard Mr.G.Sankaran, Learned Counsel for the Petitioner and Mr.N.Shanmugaselvam, Learned Additional Government Pleader who takes notice for the First to Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the proceedings in Na.Ka.No.45/A1/2021 dated 17.03.2021 passed by the Fourth Respondent in which the Petitioner has been called upon to refund the excess payment made to him in his salary.

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. It is not the case of the Respondents that before the impugned recovery towards excess payment claimed to have been made was effected, any show cause notice had been issued to the Petitioner calling for an explanation from him with supporting materials relied in that regard. Such incurable flaw in decision making by the Respondents which is in violation of the principles of natural justice vitiates the impugned order which has to be set aside on that sole ground leaving it open to the concerned authorities to appropriately deal with the matter following due process. 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 excess amount made to Government Servants/Pensioners/Family Pensioners have to be made. In response to the query made by this Court, Learned Additional Government Pleader appearing for the Respondents, on instructions, confirms that no such show cause notice had been issued to the Petitioner before passing of the impugned order.

4. In that view of the matter, the impugned Order dated 17.03.2021 passed by the Fourth Respondent is set aside. The concerned authorities shall issue show cause notice to the Petitioner along with working-sheet of the calculation for the excess payment claimed to have been made to him in his pay and after affording full opportunity of personal hearing to him 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 any of the earlier order passed in the matter, and the decision taken shall be communicated to the Petitioner under written acknowledgement.



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

Sd/-

Assistant Registrar (CSIII)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

To

1.The Director of Elementary Education,
DPI Campus, College Road,
Chennai-600 006.

2.The Chief Educational Officer,
Thanjavur District,
Thanjavur.

3.The District Educational Officer,
Kumbakonam Education District,
Kumbakonam,
Thanjavur District.

4.The Block Educational Officer,
Thirupanandal Block,
Thanjavur District.

5.The Correspondent,
Alhilal Muslim Aided Middle School,
Thathuvancheri,
Thirupanandal Taluk,
Thanjavur District.

+1 CC to M/s.G.SANKARAN, Advocate (SR-15684[F] dated
09/04/2021)

+1 CC to M/s.SPL GP (SR-15808[F] dated 15/04/2021)

W.P. (MD)No.7723 of 2021
09.04.2021

KG (CO)

KB(11.05.2021) 3P 8C

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