



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W. P. (MD) No. 12362 of 2014

and

M.P. (MD) Nos. 1 and 2 of 2014

S.Malarvani

... Petitioner

Vs.

1.The Secretary to Government,
School Education,
Fort St. George,
Chennai-9.

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

3.The Chief Educational Officer,
Sivagangai District,
Sivagangai.

4.The Headmaster,
Government High School,
Keelakandani,
Sivagangai District.

5.The Regional Accounts Officer (Audit)
School Education Department,
Madurai-625 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorari, to call for the records of the impugned order passed by the 4th respondent in Na.ka.No.82/2014 dated 18.07.2014 and quash the same as illegal.

For Petitioner : Mr.K.C.Ramalingam

For Respondents : Mr.D.Gandhiraj,

Counsel for the Government of Tamil Nadu

O R D E R

(through Video Conference)

Heard Mr. K.C.Ramalingam, Learned Counsel appearing for the Petitioner and Mr. D.Gandhiraj, Learned Counsel representing the Respondents and perused the materials placed on records, apart from the pleadings of the parties.

2.The Writ Petition challenges the proceedings in Na. Ka.
<https://hcservices.ecourts.gov.in/hcservices/>



No.82/2014 dated 18.07.2014 passed by the Fourth Respondent in which the Petitioner has been called upon to refund the sum of Rs.76,714/- excessively paid to her.

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 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 her with supporting materials relied in that regard. Such incurable 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 18.07.2014 passed by the Fourth Respondent is set aside leaving it open to the concerned authorities to appropriately deal with the matter following due process. 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 her in her pay and after affording full opportunity of personal hearing to her and considering each of the objections that may be raised by her, 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.

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

Sd/-

Assistant Registrar (A.D II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note: (i) 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 Secretary to Government,
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- 4.The Headmaster,
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- 5.The Regional Accounts Officer (Audit)
School Education Department,
Madurai-625 002.

+1 CC to M/s.K.C.RAMALINGAM, Advocate (SR-23543[F] dated 22/07/2021)

W. P. (MD) No. 12362 of 2014

19.07.2021

RS (18.08.2021) 3P 7C