



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 18.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.6054 of 2022
and
W.M.P.No.6137 of 2022

V.Kala

... Petitioner

Vs.

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The Chief Educational Officer,
Tiruvarur District, Tiruvarur.
3. The District Educational Officer,
Tiruvarur Educational District,
Tiruvarur.
4. The Block Educational Officer-I,
Valangaiman Union,
Valangaiman, Tiruvarur District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 4th respondent in Na.Ka.No.1432/A4/2020 dated 16.04.2021 together with Audit objection for Pay Re-fixation Recovery Statement and to quash the same and consequently directing the respondents to restore the incentive increment for B.Ed. Degree qualification acquired by the petitioner with all consequential and attendant benefits including the arrears of salary.

For Petitioner : Mr.G.Sankaran
For Respondents : Mr.V.Manoharan
Additional Government Pleader

ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.



2. This writ petition has been filed seeking to issue a writ of Certiorarified Mandamus, quashing impugned proceedings issued by the 4th respondent dated 16.04.2021 and consequently directing the respondents to restore the incentive increment for B.Ed. Degree qualification acquired by the petitioner with all consequential and attendant benefits including the arrears of salary.

3. The case of the petitioner in brief:

The petitioner was initially appointed as Secondary Grade Teacher on 20.07.1988 and now, she is working as Headmaster. The petitioner possessed B.Ed decree and for the same, she was granted incentive increment from May 2011, as per G.O.Ms.No.107 date 20.01.1976. The fourth respondent issued impugned communication dated 19.05.2020, stating that the Auditor objected for sanctioning of incentive increment for B.Ed. Degree and directed the petitioner to remit the entire amount of Rs.11,27,937/- in a lump sum to the Government account. The payment of incentive increment for acquiring B.Ed. degree, after promotion as Middle School Head Master, is permissible and hence, the impugned recovery proceedings is liable to be quashed.

4. The learned Additional Government Pleader appearing for the respondents submitted that, the petitioner has given consent by letter dated 08.2.2021 to remit her salary for recovery of payment of incentive increments, as per Audit objection. Therefore, after lapse of one year, the petitioner cannot seek to quash the recovery proceedings and hence, the writ petition is liable to be rejected.

5. The learned counsel appearing for the petitioner submitted that, as per G.O.Ms.No.1024 dated 19.12.1993, the incentive increment for a teacher is restricted to two incentive increments in his entire career and hence, the incentive increment granted to petitioner is in compliance to the government orders and hence, the same cannot be ordered to be recovered. He further submitted that the petitioner was coerced to submit the consent letter to recover the amount and hence, the impugned recovery proceedings has to be quashed.

6. A perusal of the records shows that on 19.05.2020, proceedings was issued by the fourth respondent, calling upon the petitioner to give explanation for the Auditor's objection for granting of incentive increment to her. Thereafter, the petitioner herself gave no objection letter dated 08.02.2021 to remit her salary for recovery of payment of incentive increments. Then only, the fourth respondent issued the impugned recovery proceedings dated 16.04.2021, calling upon the petitioner to remit the entire amount of Rs.11,27,937/- in one installment to the Government Account. Therefore, the



contention of the petitioner that the above consent letter was received by the fourth respondent by coercion cannot be accepted. If really, the petitioner was coerced to give consent letter by the authorities concerned, she should make complaint against them immediately before the higher officials. But no such complaint was given by the petitioner. From the date of consent letter, the petitioner is being silent and now made allegations against the higher officials that the consent letter was received by coercion. Therefore, this court is of the view that the allegations raised by the petitioner cannot be accepted and there is no ground to interfere with the impugned recovery order.

7. Accordingly, the writ petition is dismissed. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Director of Elementary Education,
DPI Campus, College Road,
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2. The Chief Educational Officer,
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3. The District Educational Officer,
Tiruvarur Educational District,
Tiruvarur.
4. The Block Educational Officer-I,
Valangaiman Union,
Valangaiman, Tiruvarur District.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.18668
+1cc to the Government Pleader, S.R.No.18820

W.P.No.6054 of 2022

NRL(CO)
CT 08/04/2022