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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WRIT PETITION NOS.9176 & 9177 OF 2014

AND

M.P.NOS.2,2 AND 3,3 OF 2014

1. V.Porchelvi	...	Petitioner in WP No.9176/14
2. T.Durairaj	...	Petitioner in WP No.9177/14

-Vs-

1. State of Tamil Nadu
rep. by its Secretary to Government,
Finance Department,
Fort St. George,
Chennai - 600 009.
2. The Director of Elementary Education,
DPI Campus,
College Road,
Chennai - 600 006.
3. The Additional Assistant Elementary
Education Officer,
Kundradam Panchayat Union,
Tiruppur District.
4. The Accountant General,
(Audit.II),
Panakal Building,
Chennai - 600 018.

... Respondents in both WPs.

Common Prayer :

These Writ Petitions are filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent herein in Na.Ka.No.503/a1/2012 dated 19.7.2013 and quash the same and consequently direct the third respondent herein to fix the pay scale of the petitioner as per the



proceedings of the third respondent herein in Na.Ka
No.503/a2/2012 dated 22.06.2012.

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For Petitioner : Mrs.R.Pavithra
in both WPs for Mrs.Dakshayani Reddy

For Respondents: Mr.L.S.M.Hasan Fizal
in both WPs Additional Government Pleader

C O M M O N O R D E R

The order impugned revising the scale of pay of the writ petitioners, is under challenge in the present writ petition.

2. The petitioners were appointed as Secondary Grade Teachers and awarded with Selection Grade. The petitioners were further promoted to the post of Primary School-Headmaster and the revision of scale of pay was effected in proceedings dated 19.07.2013.

3. The learned counsel appearing on behalf of the petitioners mainly contended that the pay of the writ petitioners was revised without even issuing a show cause notice and therefore, the order impugned is in violation of the Principles of Natural Justice.

4. The learned Additional Government Pleader appearing on behalf of the respondents objected the said contention by stating that there was an audit objection with reference to the erroneous fixation of pay and therefore, there is no infirmity as such in revising the scale of pay, as applicable to the writ petitioners and based on the audit objection the pay was revised and the excess payment made is sought to be recovered.

5. This Court is of the considered opinion that, errors in fixation of the pay shall be corrected by the competent authorities. In respect of excess pay, if any paid, if there is any misrepresentation or an undertaking on the part of the employee concerned, then the authorities are empowered to recover the pay. However, all such factors are to be ascertained by affording an opportunity to the employee concerned. Any order affecting the rights of an employee, is to be passed only after providing an opportunity to defend his case.

6. In the present case, the respondents are unable to establish that a show cause notice and an opportunity was provided to the writ petitioners, before passing the order



impugned. This being the factum, this Court is of the considered opinion that the case of the petitioners is to be remanded for reconsideration by the competent authorities.

7. Accordingly, the order impugned passed by the third respondent in proceedings viz., Na.Ka.No.503/a1/2012 dated 19.7.2013, is quashed and the matter is remanded back for fresh consideration. The respondents/competent authorities, are directed to issue a show cause notice setting out all the facts and details to the writ petitioners within a period of six weeks from the date of receipt of a copy of this order and on receipt of the show cause notice, the petitioners are at liberty to submit their representation /objection within a period of two weeks from the date of receipt of a copy of the show cause notice to be issued. Thereafter, the competent authorities shall consider the merits and the materials available on record and pass orders, as expeditiously as possible.

8. With these directions, both the Writ Petitions stand allowed. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sha/ars

To

1. State of Tamil Nadu
rep. by its Secretary to Government,
Finance Department,
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Chennai - 600 009.
2. The Director of Elementary Education,
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4. The Accountant General,
(Audit.II),
Panakal Building,
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+1cc to Mrs.Dakshayani Reddy, Advocate, S.R.No.34787
+1cc to the Government Pleader, S.R.No.34875

W.P.Nos.9176 & 9177 of 2014

(CO)
PM/27/06/2022