



W.P.No.17601 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17601 of 2018
and W.M.P.No.20879 of 2018

N.Gomathi

...Petitioner

Vs.

1.The District Elementary Education Officer,
Erode District,
Erode.

2.The Assistant Aided Elementary Education Office,
Nambiyur,
Erode District.

Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the proceedings of the 2nd respondent in Na.Ka.No.459/A1/2015 dated 16.02.2017 and quash the same.

For Petitioner : Mr.S.Mahesh

For Respondents : Mr.R.Neethi Perumal
Government Advocate



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ORDER

The order of recovery dated 16.02.2017 is sought to be quashed in the present writ petition.

2.The petitioner joined as Junior Secondary Grade Teacher (Mathematics) on temporary basis on 26.10.2004 at Panchayat Union Elementary School, Molapalayam, Nambiyur Block, Erode District. Initially she was appointed on consolidated pay salary and subsequently, her services were regularized as Secondary Grade Teacher w.e.f. 01.06.2006 and the petitioner was brought under the regular establishment in the time scale of pay.

3.The scale of pay as applicable was fixed w.e.f. 01.06.2006 to the petitioner. The fixation of pay was found to be erroneous by the Local Fund Audit authorities who in turn raised an objection and based on the audit objection, the impugned order of re-fixation was issued in proceedings dated 16.02.2017, which is under challenge in the present writ petition.



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4.The learned counsel for the petitioner mainly contended that the refixation of pay and the recovery was issued without any Show Cause Notice to the writ petitioner and thus, the order is in violation of the principles of natural justice.

5.Any order affecting the right of an employee is to be passed only after affording an opportunity to employee concerned. The scale of pay fixed in favour of the writ petitioner was revised to her disadvantage and consequential recovery was imposed. While doing so, the authorities must give an opportunity to the writ petitioner to defend her case and in the present case, the respondents are unable to establish that an opportunity was afforded to the petitioner to submit her explanation or objection. This being the factum, the order impugned passed by the 2nd respondents in proceedings dated 16.02.2017, is quashed and the matter is remanded back to the 2nd respondent for fresh consideration. Accordingly, the 2nd respondent is directed to issue a Show Cause Notice to the writ petitioner setting out all facts and details, within a period of four weeks from the date of receipt of a copy of this order. On receipt of the notice, the writ petitioner is at liberty to submit her explanation/objection along with the documents if any, within a period of two weeks from the date of receipt of a copy of Show Cause Notice to be issued



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and thereafter, the 2nd respondent shall consider the case of the writ petitioner on merits and pass appropriate orders as expeditiously as possible, preferably, within a period of twelve weeks thereafter.

6. Accordingly, this writ petition stands allowed. No Costs. Consequently, connected miscellaneous petition is closed.

01.11.2022

Index : Yes
Internet : Yes
Speaking order : Yes
ssr



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To

WEB COPY

- 1.The District Elementary Education Officer,
Erode District,
Erode.
- 2.The Assistant Aided Elementary Education Office,
Nambiyur,
Erode District.



WEB COPY



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S.M.SUBRAMANIAM, J.

SSR

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