



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 16693 of 2017
and
W.M.P. No. 18074 of 2017

M.Pandurangan

... Petitioner

-vs-

1. The Joint Director of School Education
DPI Complex
College Road, Madras - 600 006.

2. The Joint Director (Audit)
School Education Department
Coimbatore.

3. The Chief Educational Officer
Cuddalore District
Cuddalore.

... Respondents

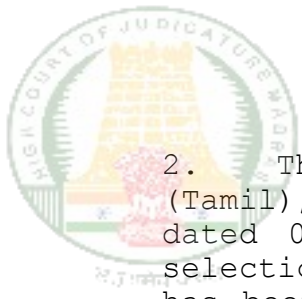
Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, to call for the records pertaining to the proceedings of the Third Respondent in Pa.Mu.No.5273/A5/2016 dated 08.05.2017 and quash the same as illegal, incompetent and ultravires.

For Petitioner : Mr.R.Jayaprakash

For Respondents: Mr. Stalin Abhimanyu
Additional Government Pleader (Edu)

O R D E R

Heard Mr. R.Jayaprakash, Learned Counsel for the Petitioner and Mr. Stalin Abhimanyu, Learned Additional Government Pleader (Education) appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.



2. The Petitioner, who is presently working as B.T. Assistant (Tamil), challenges the Proceedings Pa. Mu. No. 5273/A5/2016 dated 08.05.2017 passed by the Third Respondent in which the selection grade earlier granted to him has been cancelled and it has been sought to recover the monetary benefits that have been wrongfully paid to him in that regard.

3. This Court at the time of admission on 03.07.2017 had granted an order of interim stay of the recovery alone, which continues to be in force as on date.

4. 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.

5. There is nothing to show that either in the impugned order or in the Counter-Affidavit filed by the Third Respondent that before the wrongful 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 is in violation of the principles of natural justice and would vitiate the impugned order. In that view of the matter, the impugned order passed by the Third Respondent is set aside leaving it open to the concerned authorities to appropriately deal with the matter following due process. It shall be incumbent upon the concerned authorities to issue show cause notice to the Petitioner along with working-sheet of the calculation for the wrongful payment claimed to have been made to him 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 the earlier order passed in the matter, and the decision taken shall be communicated to the Petitioner under written acknowledgement.



6. In the event of the concerned authorities failing to initiate fresh such proceedings within 31.07.2022, any amount so far recovered from the Petitioner pursuant to the impugned order, which has been set aside, shall be refunded to him under written acknowledgment and report of compliance in that regard shall be filed before the Registrar (Judicial) of this Court.

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

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

Maya

To

1. The Joint Director of School Education
DPI Complex
College Road, Madras - 600 006.
2. The Joint Director (Audit)
School Education Department
Coimbatore.
3. The Chief Educational Officer
Cuddalore District
Cuddalore.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.
(For filing report of compliance
before the Hon'ble Court)

+1cc to Mr.R.Jayaprakash, Advocate SR.No.14788

W.P. No. 16693 of 2017

AK II(CO)
GMY(11/05/2022)