



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.3897 of 2022
and
W.M.P(MD).No.3363 of 2022

P.Raja ... Petitioner
Vs.

1. The Commissioner of School Education,
O/o.the Commissioner of School Education,
DPI Compound, College Road,
Chennai.
- 2 The Joint Director of School Education (Personal),
O/o the Joint Director of School Education,
DPI Compound,
College Road, Chennai.
- 3 The Chief Educational Officer,
Office of the Chief Educational Office,
Sivagangai District.
- 4 The District Educational Officer,
O/o, the District Educational Office,
Devakottai, Sivagangai District.
- 5 The Head Master,
Government Higher Secondary School,
Maravamangalam, Sivagangai District. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the impugned proceedings in Na.Ka.No.105A/2020 dated 19.12.2020 passed by the 5th respondent and the consequential impugned proceedings in Na.Ka.No.37/2022 dated 28.02.2022 passed by the 5th respondent and quash the same as illegal .

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader



O R D E R

The order of re-fixation of pay and recovery regarding the excess payment in proceedings dated 19.12.2020 is under challenge in the present Writ Petition.

2. The petitioner is working as B.T.Assistant and incentive increment was granted to him. Subsequently, there was an audit objection stating that the petitioner acquired the additional qualification without obtaining prior permission from the Department. However, no opportunity was provided to the petitioner to defend his case. Any order affecting the rights of an employee must be passed only after providing an opportunity to defend his case.

3. This being the basic principles to be followed, the case of the writ petitioner is to be remanded back for fresh consideration. Accordingly, the order passed by the fifth respondent in proceedings Na.Ka.No.105A/2020 dated 19.12.2020 and the consequential proceedings dated 28.02.2022 are quashed. The respondent Nos.4 and 5 are directed to issue a show cause notice to the petitioner setting out all the facts and details within a period of four weeks from the date of receipt of a copy of this order. The petitioner is at liberty to submit his objection/explanation, if any, within a period of two weeks from the date of receipt of a copy of the show cause notice. Thereafter, the Competent Authority shall consider the explanation and the materials available on record on merits and in accordance with law and pass orders as expeditiously as possible.

4. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb

To

1. The Commissioner of School Education,
O/o the Commissioner of School Education,
DPI Compound, College Road,
Chennai.



2 The Joint Director of School Education (Personal),
O/o the Joint Director of School Education,
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3 The Chief Educational Officer,
Office of the Chief Educational Office,
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5 The Head Master,
Government Higher Secondary School,
Maravamangalam, Sivagangai District.

+1 CC to M/s.SPL GP (SR-9743[F] dated 03/03/2022)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-9967[F] dated
04/03/2022)

W.P. (MD) No.3897 of 2022

03.03.2022

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