



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.1699 of 2019

and

WMP(MD)Nos.11669 and 1452 of 2019

P.Paul Emmanuel Rajan

... Petitioner

Vs.

1.The District Educational Officer,
Tirunelveli.

2.The Headmaster,
Avvaiyar Government Girls Higher Secondary School,
Pavoorchathiram,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in his proceedings in Na.Ka.No.11/2019, dated 09.01.2019 and quash the same and direct the respondents to allow the petitioner to continue to have the same benefits.

For Petitioner :Mr.V.Paneerselvam

For R1 & R2 :Mr.G.V.Vairam Santosh
Additional Government Pleader

O R D E R

The order of recovery dated 09.01.2019 is under challenge in the present writ petition.

2. The petitioner was holding the post of Physical Director Grade-II and retired from service on 31.07.2018. While so, the impugned order of recovery was issued in proceedings dated 09.01.2019 stating that there was an audit objection in respect of



grant of incentive increments to the writ petitioner, in other words, excess increment has been paid to the petitioner. Thus, an audit objection was raised and consequently, the impugned recovery order has been passed.

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3. This Court is of the considered opinion that while granting incentive increments to the teachers in accordance with the Government policy, the authorities competent are expected to be cautious while verifying the eligibility of a teacher. There are many lapses in the matter of grant of incentive increment in the Education Department in the Government of Tamil Nadu. There are several disputes, which are all raised by the Teachers in the matter of grant of incentive increments. Under those circumstances, the authorities must be cautious while verifying the records and ascertaining the eligibility.

4. In the present case, the incentive increments was erroneously granted. The Audit party raised an objection. By that time, the petitioner reached superannuation and allowed to retire from service. If any recovery is imposed after retirement, the same would result in hardship to the retired employees. The Courts are repeatedly held that recovery of excess of payment, if any made, cannot be recovered from the retired employees. This apart, the impugned order of recovery has been issued without even issuing a show-cause notice and in violation of principles of natural justice.

5. For all these reasons, the order impugned passed by the 2nd respondent in proceedings in Na.Ka.No.11/2019, dated 09.01.2019, is quashed. The writ petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MPK

To

1.The District Educational Officer,
Tirunelveli.



2.The Headmaster,
Avvaiyar Government Girls Higher Secondary School,
Pavuoorchathiram,
Tirunelveli District.

+1 CC to M/s.V.PANNEER SELVAM, Advocate (SR-5622[F] dated
11/02/2022)

+1 CC to M/s.SPL.GP (SR-5763[F] dated 11/02/2022)

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RD(25.02.2022) 3P 5C