



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.14976 of 2020 and
W.M.P.(MD) No.12606 of 2020

K.Ahamed Hussain

... Petitioner

-vs-

1.The District Educational Officer,
Tenkasi, Tenkasi District.

2.The Headmaster,
SMSS Government Boys Higher Secondary School,
Shenkottai, Tenkasi District.

3.The Zonal Audit Officer,
School Education Department,
Tallakulam, Madurai.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the 1st respondent order in O.Moo.No.1078/A3/2020 dated 09.10.2020 and to quash the same.

For Petitioner : Mr.M.Mohamed Sherbudeen

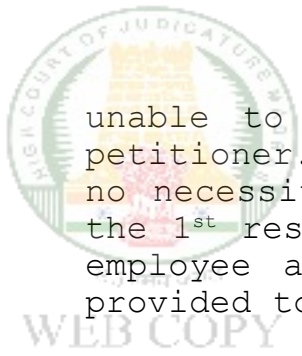
For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

O R D E R

The re-fixation of pay and recovery of excess payment made in proceedings dated 09.10.2020 is under challenge in the present writ petition.

2.The learned counsel for the petitioner states that the order of recovery has been issued without providing an opportunity to the petitioner to defend his case.

3.This Court is of the considered opinion that re-fixation of pay may be done, if there is any error or otherwise. In other words, correction of fixation of pay is permissible. However, when it is done and a consequential recovery is made, a show cause notice is to be issued to the employee concerned by providing opportunity. In the present case, even in the counter, the 1st respondent is



unable to establish that a show cause notice was issued to the petitioner. Contrarily, the counter affidavit states that there is no necessity to issue a show cause notice. Such a stand taken by the 1st respondent is contrary to law and whenever the rights of an employee are likely to be affected, then an opportunity must be provided to defend his case.

4. Accordingly, the order impugned passed by the 1st respondent in proceedings dated 09.10.2020 is quashed and the matter is remanded back to the 1st respondent for issuing show cause notice within a period of four weeks from the date of receipt of a copy of this order setting out all facts and details. On receipt of the show cause notice, the petitioner is at liberty to submit his explanation/objections, if any within a period of two weeks from the date of receipt of a copy of the show cause notice. Thereafter, the 1st respondent is directed to consider the explanations/objections, if any, submitted by the petitioner and take a decision and pass orders on merits and in accordance with law as expeditiously as possible.

5. In the result, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar (LA&MC)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

To

1. The District Educational Officer,
Tenkasi, Tenkasi District.

2. The Headmaster,
SMSS Government Boys Higher Secondary School,
Shenkottai, Tenkasi District.

3. The Zonal Audit Officer,
School Education Department,
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+1 CC to M/s.SPL GP (SR-9746[F] dated 03/03/2022)

W.P. (MD) No.14976 of 2020
02.03.2022

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