



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.01.2022**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P. (MD)No.6356 of 2018

and

W.M.P. (MD)No.6205, 6206 & 15996 of 2018

WEB COPY

K.Kanthimathi

...Petitioner

/Vs./

1.The District Elementary Educational Officer,
Tirunelveli.

2.The Assistant Elementary Educational Officer,
Pappakudi,
Tirunelveli District.

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records of the proceedings of the 2nd respondent in Na.Ka.No.261/A2/2017 dated 05.03.2018 and quash the same as illegal and arbitrary.

For Petitioner	: Mr.P.Ganapathi Subramanian
For Respondents	: Mr.V.Om Prakash
	Government Advocate

ORDER

Both Mr.P.Ganapathi Subramanian, learned counsel for petitioner and Mr.V.Om Prakash, learned Government Advocate would concur on the position that I have dealt with the identical factual matrix as arises in this writ petition, in W.P.(MD)Nos.375 to 382 of 2018 and batch, and by order dated 10.11.2021, have stated as follows:

"This batch of 22 writ petitions has been filed by persons initially appointed as Secondary Grade Teachers in Elementary Education School system. They were thereafter promoted as Primary School Headmasters, based on their seniority.

2.Since the facts and the issues that arise for resolution in all the writ petitions are common, a single order is passed disposing the batch.

3.In the interests of clarity, the facts and dates referred to in W.P.(MD)No.375 of 2018 in the case of P.V.Sumathi are adverted to in



detail. To be noted that while there is identity of facts and legal issues in all matters, there are differences in regard to the dates of appointment and promotion, that are not material in deciding the legal issue arising in these matters.

4.P.V.Sumathi was appointed as a Secondary Grade Teacher on 16.12.1989, promoted as Primary School Headmistress in the year 2004 while, in the interim, acquiring B.Lit qualification in 1997. She was promoted to the post of Middle School Headmistress on 02.06.2010, and while in service, completed B.Ed., course on 28.12.2012. The benefit of G.O.Ms.107, Education Department, dated 20.01.1976 enured to her and she was granted incentive increment for having acquired B.Ed., degree.

5.While this is so, impugned proceedings dated 23.11.2017 has come to be issued like a bolt from the blue, cancelling the incentive increment granted and directing consequentially, the recovery of the same.

6.Learned counsel for the petitioner proceeds on the assumption that the impugned order has come to be passed, based upon a clarification dated 07.11.2014 issued by the Joint Director of Elementary Education. However, I do not see any reference to the aforesaid clarification in the impugned order that refers to three proceedings dated 10.10.2017, 08.11.2017 and 15.11.2017, on the basis of which, the benefits granted to the petitioner in 2012 were reversed and recovery ordered. Impugned order contains no reasoning for such reversal and consequent recovery and it is an admitted position that no show cause notice has been issued to the petitioner prior to passing of the impugned order.

7.In these circumstances, without going into the merits of the matter, I deem it appropriate to set aside the impugned orders dated 22.11.2017 (W.P. (MD) Nos.377, 379,380, 381, 382, 386 of 2018), 23.11.2017(W.P. (MD) Nos.375 , 378,384 of 2018),24.11.2017 (W.P. (MD) Nos.463,468 of2018),28.11.2017(W.P. (MD) Nos. 376, 383,385, 464, 470, 472 of 2018),05.01.218 (W.P. (MD) Nos.465,466,467,469 of 2018), and 09.12.2017 (W.P. (MD) Nos.471 of 2018).



8.Liberty is however granted to the Assistant Elementary Educational Officer/R2 to issue show cause notices, within four weeks from today, supply to the petitioners the communications referred to in the impugned orders as well as any other materials on the basis of which the impugned reversal and recovery is proposed, hear the petitioners and thereafter, pass orders de novo within a period of six weeks from date of first hearing of the petitioners by R2.

9.The timelines set, as above, will be adhered to scrupulously and any violation of the same will disentitle R2 from initiating any further proceedings. To clarify, if a show cause notice is not issued within four weeks from today, the proceedings will stand abated. These writ petitions are disposed in the aforesaid terms, leaving all contentions on merits open, to be argued by the petitioners before the concerned authority, including reliance upon relevant case law. No costs. Consequently, connected Miscellaneous Petitions are closed."

2.In view of the admitted identity in the facts and the legal position, the same order is taken to be passed in this matter as well specifically, paragraphs 8 and 9. This Writ Petition is disposed as above. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

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/ /2022

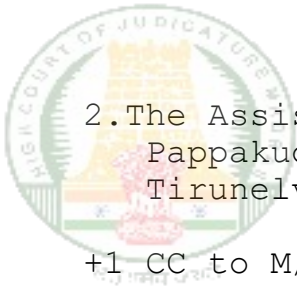
Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Elementary Educational Officer,
Tirunelveli.



2.The Assistant Elementary Educational Officer,
Pappakudi,
Tirunelveli District.

+1 CC to M/s.SPL.GP (SR-2413[F] dated 25/01/2022)

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24.01.2022

GM(CO)
KB(14.02.2022) 4P C