



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2022

CORAM

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.23626 of 2019

and

W.M.P. (MD) Nos.20240 & 20241 of 2019

Ganeshan

... Petitioner

-vs-

- 1.The Secretary to Government,
School Education Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 9.
- 2.The Director of School Education,
Office of the Director of School Education,
Chennai - 6.
- 3.The Chief Educational Officer,
Pudukottai District, Pudukottai.
- 4.The Zonal Accounts Officer (Audits),
School Educational Department,
Madurai - 2.
- 5.The Head Master,
Government High School,
Valladipatti,
Pudukottai District.

... 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 2nd Respondent in his proceedings in Na.Ka.No.42026/H/E2/2016 dated 11.06.2016 and consequential order passed by the 5th Respondent in his proceedings Na.Ka.No.73/2019 dated 29.10.2019 and quash the same as illegal, arbitrary, violation of principles of law.

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



O R D E R

The show cause notice issued in respect of the excess incentive increment granted to the writ petitioner is under challenge in the present writ petition.

2.The petitioner is working as B.T. Assistant (English) in Government High School, Valladipatti, Pudukottai District. Based on his application, incentive increment was granted to the writ petitioner for acquiring additional educational qualification.

3.Incentive increments are to be granted strictly in accordance with the Government Policy and in the event of any arrear of excess pay, the authorities competent are empowered to recover the same. Excess payment of incentive increment, resulted in *unjust enrichment* to an employee, at no circumstances, be allowed. If at all any such excess amount paid is identified either by the competent authority or through audit objections, then steps are to be initiated to recover the excess payment, as the Teacher, who is not eligible to get such incentive increment cannot be allowed to take tax payers' money.

4.In the present case, incentive increment was granted by the authority. At the time of disbursing the arrears of incentive increment, the petitioner also has given an undertaking that in the event of any excess payment identified, the said excess payment will be paid in one instalment. When the petitioner himself has given an undertaking that in the event of identification of any mistake or error in grant of incentive increment, he will pay the entire excess payment, there is no reason to challenge the show cause notice. If at all the grant of incentive increment is in accordance with the Government Orders as per the petitioner, he is at liberty to submit his explanation/objection in respect of the show cause notice issued to him. Contrarily, no writ needs to be entertained in respect of such show cause notice issued seeking explanation in respect of excess payment made to the petitioner. The Hon'ble Supreme Court of India in clear terms held that in the event of any misrepresentation or the employee concerned has given an undertaking regarding the excess payment, then the said amount is to be recovered by the competent authority.

5.In the present case, the show cause notice is under challenge. Correctness of the grant of incentive increment shall be explained by the petitioner before the competent authority and the authority competent shall take final decision on merits and in accordance with law. In this regard, the petitioner is at liberty to submit his explanation/objection, if any, within a period of two weeks from the date of receipt of a copy of this order and on receipt of any such explanation from the petitioner, the respondents shall consider the case of the petitioner on merits and based on the records available, pass final orders as expeditiously as possible.



6. With the above observations and direction, this Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1. The Secretary to Government,
School Education Department,
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4. The Zonal Accounts Officer (Audits),
School Educational Department,
Madurai - 2.

5. The Head Master,
Government High School,
Valladipatti, Pudukottai District.

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-13380[F] dated 22/03/2022)

+1 CC to M/s.SPL GP (SR-13541[F] dated 22/03/2022)

W.P. (MD) No.23626 of 2019
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RS (29.03.2022) 3P-8C