



W.P.(MD)No.27718 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.27718 of 2022

and

W.M.P.(MD) No.21822 of 2022

N.Pounmari

... Petitioner

Vs.

1.The Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai - 600 009.

2.The Regional Accounts Officer
O/o.The Regional Accounts Office,
School Education Department,
Madurai - 625 002.



W.P.(MD)No.27718 of 2022

WEB COPY

3.The Headmaster

Government High School,
Mamsapuram,
Sivakasi (West) - 626 124,
Virudhunagar District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the third respondent i.e., the Headmaster Government High School, Mamsapuram in his impugned Memo No.110/2022-23 dated 28.11.2022 and quash the same and consequently direct the third respondent i.e., the Headmaster Government High School, Mamsapuram not to effect any recovery even if it is a mistaken payment and also direct the first respondent i.e., the Principal Secretary to Government, School Education Department, Chennai, to decide whether the sanction of incentive increment to the petitioner for passing P.G.Diploma in Yoga is correct or not as per G.O.(Perm) No.177 School Education Department, dated 13.10.2016.



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W.P.(MD)No.27718 of 2022

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.S.Saji Bino - for R1 & R3
Special Government Pleader

ORDER

This Writ Petition has been filed to call for the records of the third respondent i.e., the Headmaster Government High School, Mamsapuram in his impugned Memo No.110/2022-23 dated 28.11.2022 and quash the same and consequently direct the third respondent i.e., the Headmaster Government High School, Mamsapuram not to effect any recovery even if it is a mistaken payment and also direct the first respondent i.e., the Principal Secretary to Government, School Education Department, Chennai, to decide whether the sanction of incentive increment to the petitioner for passing P.G.Diploma in Yoga is correct or not as per G.O.(Perm) No.177 School Education Department, dated 13.10.2016.

2. The learned counsel for the petitioner submitted that the petitioner is working as a Physical Educational Teacher in the third



W.P.(MD)No.27718 of 2022

respondent School and she was given increment. However, the said increment was ordered to be recovered in the present impugned order. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner submitted that if any excess amount is paid to the petitioner, if it is so, the official respondent has to conduct an enquiry by providing opportunity to the petitioner. Without conducting an enquiry and providing any opportunity to the petitioner, straight-away passed the impugned order which is a clear violation of principles of natural justice. Accordingly, he prayed for appropriate orders.

4. The learned Special Government Pleader appearing for the respondents 1 and 3 would submit that without conducting any enquiry as against the petitioner the amount will not be deducted from the petitioner's account.

5. Recording the same, this writ petition is disposed of, with a direction to the respondents to provide an opportunity to the petitioner



W.P.(MD)No.27718 of 2022

WEB COPY

before passing any recovery order, by treating this impugned order as a show-cause notice and conclude the proceedings after providing an opportunity to the petitioner. No costs. Consequently connected miscellaneous petition is closed.

08.12.2022

Index : Yes / No
Internet : Yes / No
RM



W.P.(MD)No.27718 of 2022

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W.P.(MD)No.27718 of 2022

M.DHANDAPANI,J.

RM

W.P.(MD)No.27718 of 2022

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