



W.P.No.18964 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.18964 of 2012
and M.P.No.1 of 2012

M.Ragupathy

... Petitioner

Vs.

1.The District Elementary Educational Officer
Nagapattinam.

2.The Assistant Elementary Educational Officer
Vedaranyam.

3.Saraswathy Aided Primary School
Rep. By its Secretary
Thethakudi South
Vedaranyam Taluk
Nagapattinam District.
Respondents

...

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the proceedings of the 2nd respondent in Na.Ka.No.121/A1/2012 dated 29.06.2012 and quash the same.



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For Petitioner : Mr.Suresh Kumar
for M/s K.M.Vijayan Associates

ORDER

This Writ Petition is filed challenging the order dated 29.06.2012 in and by which, a sum of Rs.32,076/- is ordered to be recovered from the petitioner.

2.As per the counter affidavit filed by the 1st respondent, it is seen that the petitioner was working as Headmaster in the 3rd respondent School. When the petitioner's salary was fixed, it was fixed above the pay band, which is applicable in respect of the Selection Grade Primary School Headmaster. During the audit, it was noticed and thereafter the pay of the petitioner was re-fixed at the correct rate. It is at this circumstance the impugned order is passed, directing the petitioner to remit the excess amount received by him.

3.Admittedly, no show cause notice has been issued to the petitioner, prior to the order of recovery. It is the respondents, who committed the



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mistake by fixing the pay scale of the petitioner over and above the permissible level. Secondly, after allowing the petitioner to receive the said amount, 2nd respondent passed the order of recovery. The said facts of this case is covered by the decision of the Hon'ble Supreme Court in ***State of Punjab and others Vs. Rafiq Masih and others***¹ . Accordingly, recovery could not be effected from the petitioner.

4.In the result, this Writ Petition is allowed on the following terms,

(i) Order of the 2nd respondent in Na.Ka.No.121/A1/2012 dated 29.06.2012 is quashed.

No costs. Consequently connected miscellaneous petition is closed.

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Index:Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1.The District Elementary Educational Officer
Nagapattinam.

¹ (2015) 4 Supreme Court Cases 334



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2.The Assistant Elementary Educational Officer
Vedaranyam.



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D.BHARATHA CHAKRAVARTHY, J.,

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