



WEB COPY



W.P. No. 5697 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 5697 of 2023

and

W.M.P. No. 5697 of 2023

R.Jaganathan

... Petitioner

-VS-

1. The Principal Accountant General
Office of the Principal Accountant General (A&E)
No.361, Anna Salai
Chennai – 600 018.
2. The Director of Elementary Education
DPI Complex, College Road
Nungambakkam
Chennai.
3. The District Elementary Educational Officer
Harur, Dharmapuri District.
4. The Assistant Elementary Educational Officer
Kadathur
Dharmapuri District – 635 303.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to Order dated 02.06.2017 bearing No. P17/4/11717175, Order dated 10.08.2017 bearing PPO. No. R1717545 and Order dated 25.01.2018 bearing No. P17/4/11718016 passed by the First Respondent and consequential



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order dated 01.02.2018 bearing Na.Ka.No. 726/A1/2017 passed by the Fourth Respondent and to quash the same and to direct the Respondents to refund the amount of Rs.10,57,256/- to the Petitioner along with the interest @ 24% per annum and to grant all other benefits including terminal and pensionary benefits under G.O. Ms. No. 202, Education Department, dated 24.09.2008 within the time stipulated by the Court.

For Petitioner : Mr. R.Ragavendran

For Respondents : Mrs. Hema Muralikrishnan (R1)

Mrs. R.Anitha (R2 to R4)
Special Government Pleader

ORDER

Heard Mr. R.Ragavendran, Learned Counsel for the Petitioner, Mrs. Hema Muralikrishnan, Learned Counsel who takes notice for the First Respondent and Mrs. R.Anitha, Learned Special Government Pleader, who takes notice for the Second to Fourth Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed challenging the Order No. P17/4/11717175 dated 02.06.2017, Order in PPO. No. R1717545 dated 10.08.2017 and Order No. P17/4/11718016 dated 25.01.2018 passed by the First Respondent and the consequential Order in Na. Ka. No. 726/A1/2017 dated



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01.02.2018 passed by the Fourth Respondent in which the Petitioner has been required to remit the sum of Rs. 10,57,256/-, which is said to have been excessively paid to him, with a consequential direction to the Respondents to refund the amount of Rs. 10,57,256/- to him along with the interest at the rate of 24% per annum and to grant all other benefits including terminal and pensionary benefits under G.O. Ms. No. 202, Education Department dated 24.09.2008 issued by the Government of Tamil Nadu, within the time that may be fixed by the Court.

3. It is trite law that any administrative action which involves civil consequences must be made consistently with the rules of natural justice, meaning thereby that the person concerned must be informed of the case with supporting evidence against him and he must be given a fair opportunity to meet the case before an adverse decision is taken. The Government of Tamil Nadu in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 after referring to the principles laid down by the Hon'ble Supreme Court of India in *State of Punjab -vs- Rafiq Masih (Whitewasher)* [(2015) 4 SCC 334], has issued detailed instructions providing the manner in which any excess amount paid to Government Servants/Pensioners/Family Pensioners would have to be made.



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4. There is nothing to show in the impugned order that before the excess payment claimed to have been made was effected, any show cause notice had been issued to the Petitioner calling for an explanation from him with supporting materials relied in that regard. Such incurable flaw in decision making by the Respondents is in violation of the principles of natural justice and would vitiate the impugned orders. In that view of the matter, the impugned orders passed by the First and Fourth Respondents are set aside leaving it open to the concerned authorities to appropriately deal with the matter following due process. It shall be incumbent upon the concerned authorities to issue show cause notice to the Petitioner along with working-sheet of the calculation for the excess payment claimed to have been made to her and after affording full opportunity of personal hearing to him and considering each of the objections that may be raised by him, a reasoned order shall be passed on merits and in accordance with law following the procedure laid down in the instructions in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 issued by the Government of Tamil Nadu, uninhibited and uninfluenced by the earlier order passed in the matter, and the decision taken shall be communicated to the Petitioner under written acknowledgement.



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5. In the event of the concerned authorities failing to initiate fresh such proceedings within 30.06.2023, any amount so far recovered from the Petitioner pursuant to the impugned orders, which have been set aside, shall be refunded to the Petitioner under written acknowledgment and report of compliance in that regard shall be filed before the Registrar (Judicial) of this Court.

In fine, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

15.03.2023

Maya

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 30.05.2023.

To

1. The Principal Accountant General
Office of the Principal Accountant General (A&E)
No.361, Anna Salai
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3. The District Elementary Educational Officer
Harur, Dharmapuri District.

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Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

Maya

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