



W.P. No. 7986 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2023

CORAM

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

W.P. No. 7986 of 2023

and

W.M.P. No. 8229 of 2023

R.Varadharajan

... Petitioner

-VS-

1. The Principal Secretary
School Education Department
Government of Tamil Nadu
Rina Road, Fort St. George
Chennai – 600 009.

2. Chief Educational Officer
Moovendar Nagar
Viluppuram
Tamil Nadu – 605 602.

3. The Zonal Accounts Officer
Education Department
Coimbatore.

4. The Head Master
Brammakundam Government
Higher Secondary School
Brammakundam
Sankarapuram
Kallakurichi District
Tamil Nadu – 605 702.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records on the file of



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the Fourth Respondent in respect of Na.Ka.No.42/2020-21 dated 03.12.2020 and quash the same as illegal, incompetent and ultravires.

For Petitioner : Mr. S.Ramachandran
For Respondents : Mr. B.Vijay (R1 to R3)
Additional Government Pleader

ORDER

Heard Mr. S.Ramachandran, Learned Counsel for the Petitioner and Mr. B.Vijay, Learned Additional Government Pleader who takes notice for the First to Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

3. In view of the order proposed to be passed, which would not cause any prejudice to the Fourth Respondents, notice to him is dispensed with.

3. The Writ Petition challenges the Order in Na. Ka. No. 42/2020-21 dated 03.12.2020 passed by the Fourth Respondent in which the Petitioner has been required to remit the sum of Rs. 1,18,984/-, which is said to have been excessively paid to him.



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4. 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 she 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.

5. 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 order. In that view of the matter, the impugned orders passed by the Fourth Respondent is set aside leaving it open to the



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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 him and after affording full opportunity of personal hearing to her 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 acknowledgment.

6. 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 order, which has 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.



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In fine, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

16.03.2023

Maya

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 30.05.2023.

To

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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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