



WEB COPY



W.P.No.1423 of 2018

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 06.03.2023

**CORAM:
THE HON'BLE MRS.JUSTICE S. SRIMATHY**

**W.P.No.1423 of 2018
and W.M.P.No.1809 of 2018**

P.Kavitha

...Petitioner

Vs

1.The Regional Accounts Officer,
(Audit),
Department of School Education,
Coimbatore 641 001.

2.The Director,
Department of School Education,
Coimbatore 641 001.

3.The Chief Educational Officer,
Namakkal,
Namakkal District.

4.The Head Master,
Government Higher Secondary School,
Rasipuram,
Namakkal District

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned orders made in Na.Ka.No.869/E8/2016 dated 11.05.2016 passed by the first respondent and the consequential order made in Na.Ka.No.104/A/2016 dated 28.06.2016 passed by the



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fourth respondent and quash the same and consequently, direct the respondents to continue the payment of incentives to the petitioner for qualifying M.Phil., degree.

For Petitioner : No representation

For Respondents : Mrs.V.Yamuna Devi,
Special Government Pleader

ORDER

This Writ Petition is filed challenging the impugned order in Na.Ka.No.869/E8/2016 dated 11.05.2016 and the consequential order in Na.Ka.No.104/A/2016 dated 28.06.2016 with mandamus paying incentives.

2.The petitioner has completed Bachelor of Physical Education and Sports Science (B.P.Ed) in the year May 2002 and Master of Physical Education in the year May 2004 and M.Phil in the year 2006 and appointed as a Physical Director in the year 2006 in the fourth respondent School on consolidated pay. Thereafter, the service of the petitioner was regularized on 01.06.2006 with an incentive increment for qualifying M.Phil and he has received the same till date. The first respondent has conducted an audit for the year 2013-2014 and 2015-



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2016 and filed his report, wherein, the first respondent has raised an objection with regard to the incentives for qualifying M.Phil., degree on the ground that the incentives were paid without any Government Orders. Therefore, the first respondent has sent an undisclosed audit report to the fourth respondent to take steps to correct the defects pointed out in the audit report within a period of two months. Based on the communication, the fourth respondent has passed the impugned order of recovery, directing the respondent to recover Rs.1,41,960/- which was excess payment paid to the petitioner from 01.06.2006 to 31.03.2016. The petitioner submits that the impugned order was passed without giving any opportunity to the petitioner and the respondents have not served any notice and the respondents have not called for any objections from the petitioner. Moreover, the respondents have not communicated the audit report to the petitioner. Therefore, this Court is inclined to set aside the impugned order.

3.Hence, the impugned order in Na.Ka.No.869/E8/2016 dated 11.05.2016 passed by the first respondent is hereby quashed and remanded back to the first respondent for fresh consideration.



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Consequently, the first respondent shall issue notice to the petitioner and after affording personal hearing to the petitioner, shall pass an appropriate speaking order.

4. With the above directions, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is also closed.

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Index: Yes/No
Speaking order/Non-speaking order
vkr

To

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S.SRIMATHY, J.

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