



WEB COPY



W.P.No.21142 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.21142 of 2023

and

W.M.P.No.20537 of 2023

K.Suguna

... Petitioner

Vs.

1.Finance Adviser cum Principal Audit Officer,
School Education,
Directorate of School Education,
Nungambakkam,
Chennai – 600 006.

2.The Director of School Education,
Directorate of School Education,
Nungambakkam,
Chennai – 600 006.

3.The Chief Education Officer,
Krishnagiri District,
Krishnagiri.

4.The District Education Officer,
Hosur,
Krishnagiri District.

5.The Head Master,
Government Girls Higher Secondary,
Bagalur,
Krishnagiri District – 635 103.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records relating to the impugned order dated 31.03.2022 made in Na.Ka.No.053130 / A. Ka. Tha / 2022 passed by the 1st respondent and the consequential order of the 5th respondent dated 16.05.2023 made in Na.Ka.No.55 / 2023 and to quash the same.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.S.Prabhakaran
Government Advocate

ORDER

The impugned orders passed by the respondents, dated 31.03.2022 and 16.05.2023, directing recovery of a sum of Rs.1,93,933/- from the petitioner, are sought to be quashed in the present writ petition.

2.The petitioner states that she is working as PG Assistant in the 5th respondent School. It is the case of the petitioner that she acquired additional qualification of M.Ed., and thereby, the petitioner is entitled to incentive/advance increment from the year 2017. Accordingly, the incentive was sanctioned and paid to the petitioner from 22.09.2017 till the month of July, 2023. While so, a Government Order in G.O.(Ms) No.37,



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Personnel and Administrative Reforms (FR-IV) Department, dated

10.03.2020, came to be issued, dispensing/cancelling the scheme of sanction of advance increment in all Departments. Thereafter, the arrears accumulated from the year 2017 has been paid to the petitioner on 01.06.2020. Therefore, the amount paid to the petitioner towards advance increment to a tune of Rs.1,93,933/- is now sought to be recovered by the respondents. Hence, the writ petition, challenging the order of recovery.

3.Heard the learned counsel for the petitioner.

4.Mr.S.Prabhakaran, learned Government Advocate appearing for the respondents, on instructions, submitted that, though the petitioner was entitled to advance increment, since the amount has been paid after the issuance of the Government Order cancelling the scheme, the impugned order of recovery has been passed.

5.It is not in dispute that the petitioner is entitled to advance increment from 22.09.2017. The impugned order has been passed ordering recovery of Rs.1,93,933/- paid towards arrears of incentive to the petitioner, which is also not in dispute. In G.O.(Ms) No.37, Personnel



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and Administrative Reforms (FR-IV) Department, dated 10.03.2020, the

Government has reviewed the scheme of sanction of advance increment to

Government servants acquiring higher qualification and has taken a policy

decision to dispense with the sanction of advance increment for acquiring

higher qualification. In the same order, the Government has also insisted

that the advance increment for acquiring higher qualification already

granted to Government servants need not be effected any recovery. It is

relevant to note that, till the Government Order came into effect, the

persons who acquired higher qualifications were entitled to such increment

in view of the scheme already put in place. The petitioner is also one such

person, who was entitled to such increment from the year 2017 and this

fact is also not disputed by the respondents. In such view of the matter,

this Court is of the opinion that, only the amount which is paid towards

advance increment sanctioned afresh to any Government servant after the

issuance of the Government Order dated 10.03.2020, alone can be

recovered, but not the amount which already accrued to the benefit of a

Government Servant upto the date of issuance of the Government Order.

Therefore, in the present case, the amount paid to the petitioner towards

advance increment from the year 2017 upto the date of issuance of the

Government Order, i.e. 10.03.2020, cannot be recovered.



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6.In view of the above, impugned orders of recovery passed by the respondents dated 31.03.2022 and 16.05.2023, are quashed, and the respondents are directed to calculate the amount that was paid to the petitioner towards advance increment after the date of issuance of Government Order, i.e., 10.03.2020 and recover the said amount alone from the petitioner.

7.Accordingly, this writ petition is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

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Internet : Yes
Index : Yes / No
Neutral citation : Yes / No
Speaking order / Nonspeaking order



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N. SATHISH KUMAR, J.

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To

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