



W.P.(MD)No.29252 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.29252 of 2022

and

W.M.P.(MD).No.23209 of 2022

M.Magmutha

... Petitioner

Vs.

- 1.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 2.The District Educational Officer
(Secondary Education),
Tirunelveli,
Tirunelveli District.
- 3.The Correspondent,
Amali Girls Higher Secondary School,
Irudayakulam,
Vickramasingapuram,
Tirunelveli District.

... Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order issued by the second respondent District Educational Officer in Na.Ka.No.1752/A4/2022, dated .12.2022, quash the same.

For Petitioner	:	M/s. A.Amala
For R1	:	Mr.J.Ashok
		Additional Government Pleader
For R3	:	No appearance

ORDER

This writ petition has been filed challenging the order of recovery passed by the second respondent dated .12.2022, and to quash the same.

2. The case of the petitioner is that he was appointed as Lab Assistant in the third respondent School viz., Amali Girls Higher Secondary School in the year 1999. The said post was approved by the Educational authorities. She was awarded selection grade in the year 2009 and special grade in the year 2019. As per G.O.(Ms.)No.234, Finance Department, the



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salary of the petitioner was refixed on 01.06.2009. Since the Lab Assistant post does not have any promotion, the petitioner's salary was re-fixed on 02.06.2009 and the monetary benefit was given only on 01.03.2011. While so, the third respondent, vide impugned proceedings dated .12.2022, informed that as the petitioner's pay was wrongly refixed, she is asked to remit the excess salary and the allowances paid with effect from 02.06.2009 in the Government Account. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that if any excess salary paid to the petitioner, the second respondent ought to have issued a show cause notice to her and conduct enquiry and thereafter pass appropriate orders. But, without conducting any enquiry, they mechanically passed the impugned order and directed the petitioner to remit the excess salary, which is not sustainable one. Hence, the impugned order passed by the second respondent is liable to be set aside.



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4. The learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that prior to the impugned order, no show cause notice has been issued to the petitioner and hence, this Court may set aside the impugned order and remit the matter back to the second respondent to comply with the principles of natural justice.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2.

6. The facts in the present case are not in dispute. Admittedly, the petitioner was appointed as Lab Assistant in the year 1999 in the third respondent School. Thereafter, she was granted selection grade in the year 2009, after completion of 10 years and on completion of 20 years, she was granted special grade. However, without assigning any reason, the order of recovery is passed and prior to the impugned order, no show cause notice has been issued to the petitioner. Hence, the impugned order passed by the second respondent is set aside and the matter is remitted back to the second



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respondent and the second respondent is directed to issue show cause notice to the petitioner and hear her and then pass appropriate orders.

7. In the result, this Writ Petition is allowed. No costs.

Consequently, the connected Miscellaneous Petition is closed.

27.01.2023

NCC: Yes/No

Index : Yes / No

Speaking Order : Yes / No

akv

To

1.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

2.The District Educational Officer
(Secondary Education),
Tirunelveli,
Tirunelveli District.



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M.DHANDAPANI,J.

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