



WEB COPY

W.P.No.4089 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.4089 of 2021

and

W.M.P.Nos.4660, 4662 and 4870 of 2021

R.Jansirani

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Personnel and Administrative Reforms (S) Department,
Fort St. George, Chennai – 600 009.
2. The Regional Accounts Officer (Audit),
Department of School Education,
L.L.A Building, 3rd Floor,
Big Bazaar Street, Town Hall,
Coimbatore – 641 001.
3. The Chief Educational Officer,
Cuddalore District,
Cuddalore – 607 001.
4. The District Educational Officer,
Vandalure, Cuddalore District – 607 303.
5. Vinayaka Missions University,
Rep. by its Registrar,
NH-47, Sankari Main Road,
Ariyanoor, Sankari Main Road,



Salem District – 636 308.

6. The Headmaster,
Government Higher Secondary School,
Erumbur,
Cuddalore District – 608 704.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in proceedings having Ref.No.Na.Ka.No.1168/ E90 / 2016, dated 06.05.2016 along with the audit objections relating to the petitioner and quash the same and consequently direct the 6th respondent to continue to pay the 2nd incentive to the petitioner for having acquired M.Phil Degree from the 5th respondent.

For Petitioner : M/s.Nalini Chidambaram,
Senior Counsel
for M/s.C.Uma

For R1 to R4 & R6 : Mr.K.H.Ravikumar,
Government Advocate

ORDER

The petitioner herein was initially appointed as Junior B.T Assistant on consolidated pay on 28.07.2004 got regularized her services as



W.P.No.4089 of

B.T Assistant on 01.06.2006 and thereafter, she was appointed as P.G Assistant by 'Recruitment by Transfer' in Government Higher Secondary School, Srineduncheri, Cuddalore District on 19.11.2011. While the petitioner was in service, she acquired M.Sc., Degree and for which she was awarded with 'First Incentive Increment' and thereafter, the petitioner acquired M.Phil., (Botany) Degree from the 5th respondent University and made a claim for award of 'Second Incentive Increment' and accordingly, the petitioner was granted 'Second Incentive Increment' with effect from 01.01.2015. However, there was an audit objection in the year 2016 on the award of such 'Second Incentive Increment' for acquiring M.Phil., (Botany) Degree from the 5th respondent University and the same is sought to be withdrawn by proposing to recover the amounts that were already paid towards the said 'Incentive Increment' with effect from 01.01.2015 by issuing impugned proceedings bearing ந.க.எண்.1168/இ90/2016 dated 06.05.2016. It is aggrieved by the said proceedings, the petitioner approached this Court by filing the present Writ Petition.

2. The respondents have filed counter-affidavit and made an attempt to justify their action in withdrawing the 'Incentive Increment' and proposing to



recover the amounts that were paid towards the said

'Incentive

Increment' in favour of the petitioner.

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3. Though submissions have been made elaborately on either side in support of their respective contentions, this Court is not inclined to examine the matter on merits at this stage in view of the fact that the impugned order came to be issued without following the principles of natural justice and no opportunity was afforded to the petitioner before withdrawing the benefit that was already conferred upon the petitioner with effect from 01.01.2015. Thus, it is evident from the impugned proceedings itself that the same was issued in violation of the principles of natural justice.

4. In the light of the above, in the considered view of this Court, the impugned order cannot be sustained for want of compliance with the principles of natural justice and the same is liable to be set aside.

5. In the light of the above, without expressing any opinion on the merits of the case, the impugned order bearing ந.க.எண்.1168/இ90/2016



dated 06.05.2016 is set aside solely on the ground of violation of principles of natural justice and the matter is remitted back to the respondents for taking appropriate action by duly following the procedure and principles of natural justice.

6. Accordingly, the Writ Petition is allowed. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

06.06.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Principal Secretary to Government of Tamil Nadu,
Personnel and Administrative Reforms (S) Department,
Fort St. George, Chennai – 600 009.
2. The Regional Accounts Officer (Audit),
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WEB COPY

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MUMMINENI SUDHEER KUMAR, J.

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