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W.P.No.5136 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.5136 of 2024 and
WMP.No.5646 of 2024

A.Banumathi

... Petitioner

Vs.

- 1.The Director of School Education,
College Road,
Chennai 600 006
- 2.The District Education Officer,
Cuddalore District
- 3.The Block Education Officer,
Cuddalore District

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records relating to the order passed by the third respondent herein made in Na.Ka.No.1315/A3/2023 dated nil.09.2023 signed on 04.10.2023 cancelling the increment granted to the petitioner herein along with the statement claiming to be the recovery statement of excess pay for the period from 01.06.2013 to 31.08.2023 with respect to the petitioner herein to the tune of Rs.5,01,016/- based on the order made in Rc.No.2919/B2/2023 dated 04.09.2023 passed by the second respondent



W.P.No.5136 of 2024

herein which was not served to the petitioner herein and quash the same and consequently direct the respondents herein to return the amount deducted from the salary of the petitioner herein based on the order passed by the second respondent herein.

For Petitioner : Mr.N.Damodaran

For Respondents : Mrs.S.Mythreye Chandru,
Special Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the third respondent dated 04.10.2023 thereby cancelled the increment granted to the petitioner and also ordered to recover and as per the order passed by the second respondent dated 04.09.2023.

2. The petitioner was appointed as Second Grade Assistant at Panchayat Union Middle School, Kodyiam on 26.07.1995. Thereafter, she had completed her Master degree in History through Open University in Annamalai University in the month of May 2002. Thereafter, she had completed her degree in Bachelor of Literature through distance education mode in Annamalai University in the month of May, 2011.



W.P.No.5136 of 2024

Subsequently, the petitioner was promoted to the post of Headmaster in the Panchayat Union Primary School by the proceedings dated 10.01.2012 in the Panchayat Union Primary School, Kumalankulam Village, Cuddalore District. Subsequently, she was transferred from the said school to Additional Panchayat Union Primary School, Naduveerapattu, Cuddalore District. In view of the qualification of the petitioner, she was granted two incentive increment for the period from 01.06.2013. While being so, the third respondent without even issuing any show cause notice and without giving any opportunity of hearing to the petitioner, cancelled the incentive increment which was already granted and paid to the petitioner and ordered to recover the excess amount paid to the petitioner to the tune of Rs.5,01,016/-.

3. The learned counsel for the respondents also submitted that the petitioner was not issued any notice and the petitioner was not given opportunity of hearing before the orders impugned in this writ petition were passed by the respondents 2 and 3 herein.



W.P.No.5136 of 2024

WEB COPY

4. In view of the above, the impugned order cannot be sustained only on the ground of violation of principles of natural justice. Accordingly, the impugned order of the third respondent dated 04.10.2023 is quashed and this writ petition is allowed. However, the respondents are at liberty to issue show cause notice and, after giving opportunity to the petitioner, pass fresh order. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

29.02.2024

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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W.P.No.5136 of 2024

To

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W.P.No.5136 of 2024

G.K.ILANTHIRAIYAN, J.

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W.P.No.5136 of 2024



WEB COPY



W.P.No.5136 of 2024

29.02.2024