



WEB COPY

W.P.No.5837 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2024

CORAM

THE HONOURABLE MR.JUSTICE **D. BHARATHA CHAKRAVARTHY**

W.P.No.5837 of 2022
and WMP.No.5928 of 2022

T. Selvi

... Petitioner

-Vs-

1. The Director of Elementary Education,
College Road,
Chennai 600 006.
2. The District Elementary Educational Officer,
Ariyalur 621 704
Ariyalur District.
3. The Block Educational Officer,
Ariyalur 621 704
Ariyalur District.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records from the 3rd respondent relating to the impugned orders issued by the 3rd respondent bearing Na.Ka.No.223/A-2/2020 dated 16.09.2020 and the consequent order bearing Na.Ka.No.918/A1/2022 dated 28.02.2022 quash the same.

For Petitioner : Mr.S.Ayyathurai

For Respondent : Mrs.Mythreye Chandru
Special Government Pleader



ORDER

WEB COPY This writ petition is filed challenging the impugned order of the third respondent dated 16.09.2020 and 28.02.2022. The petitioner was granted incentive increment upon obtaining the qualification of M.A., Economics. However, in view of the audit objections, the increment was ordered to be stopped and payment which were made from the year 2013 were ordered to be recovered.

2. When the matter came up for hearing, the learned counsel for the petitioner submitted that as far as the incentive is concerned, subsequently petitioner has obtained B.A., Tamil and as per the new Rule she will be entitled for one time lumpsum payment. As far as the present incentive is concerned even though it has been reduced the amount cannot be ordered to be recovered. The learned counsel placed reliance upon the judgment of this Court in W.P.No.4363 of 2007 in the case of ***K.Chithra Vs The Secretary and others*** and also the other judgments.

3. The learned Special Government Pleader relied upon the counter and submitted that when the incentive was erroneously granted to the petitioner the



same was ordered to be recovered.

WEB COPY

4. Be that as it may, when it is seen that the incentive was paid not on any misrepresentation of the petitioner and it was paid from the year 2013, the matter squarely falls within the para 38 Sub Clause 4 of the judgment in the case of ***State of Punjab and Ors., Vs. Rafiq Masih*** and accordingly no recovery whatsoever can be made. In view thereof, the impugned order shall stand quashed in as much as the order of recovery of the petitioner. No costs.

5. With the above observation, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

25.04.2024

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



WEB COPY

W.P.No.5837 of 20



To

1. The Director of Elementary Education,
College Road,
Chennai 600 006.
2. The District Elementary Educational Officer,
Ariyalur 621 704
Ariyalur District.
3. The Block Educational Officer,
Ariyalur 621 704
Ariyalur District.



WEB COPY

W.P.No.5837 of 2022



D. BHARATHA CHAKRAVARTHY, J.

dpq

W.P.No.5837 of 2022
and WMP.No.5928 of 2022

25.04.2024