



WP(MD). No.11843 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 06.06.2024

CORAM

THE HON'BLE Ms.JUSTICE R.N.MANJULA

WP(MD) No.11843 of 2024
and WMP(MD) Nos.10558 & 10561 of 2024

R.Keerthiga

... Petitioner

Vs

1. The Director of School Education,
O/o.The Director of School Education,
DPI Compound, College Road,
Chennai.

2. The Chief Educational Officer,
O/o.The Chief Educational Officer,
Dindigul, Dindigul District.

3. The District Educational Officer,
O/o.The District Educational Officer,
Anna Nagar, Palani, Dindigul District.

4. The Head Master,
Government High School,
A.Kalayamputhur, Palani Taluk,
Dindigul District.

... Respondents

PRAYER :- Writ Petition, filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings vide in Na.Ka.No.08/2023



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dated 19.01.2024 passed by the 4th Respondent and quash the same as illegal.

For Petitioner : Mr.M.Mohammed Zamil for
M/s.Ajmal Associates

For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

Heard Mr.M.Mohammed Zamil, learned counsel for the petitioner and Mr.T.Amjad Khan, learned Government Advocate, for the respondents.

2.This writ petition has been filed challenging the the proceedings of the 4th respondent in Na.Ka.No.08/2023 dated 19.01.2024, in and by the impugned order, recovery has been ordered for the special pay to the petitioner from the period from 01.01.2006.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



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4. The petitioner was sanctioned with special pay of Rs.750/- in accordance with G.O.Ms.No.23 dated 12.11.2011, wherein, the special pay has been allowed to Secondary Grade Teachers from 01.01.2006 notionally and monetary with effect from 01.01.2011. Now, it is alleged that the petitioner has got her promotion to the post of BT Assistant on 25.09.2008 ie., before issuance of G.O. Ms.No.23 dated 12.01.2011.

5. The contention of the learned counsel for the petitioner is that the petitioner was a Secondary Grade Teacher from 01.01.2006, when the notional effect was given for the special pay. Hence, the fixation of pay by notional impact from the period from 01.01.2006 is very much within the scope of the Government order and there is no violation. Even in the impugned order, it has not been stated specifically that the petitioner has been given with monetary benefits from 01.01.2006 instead of giving notional impact. Even for any valid reasons, if monetary effect was given from 01.01.2006 that will not change the pay fixation, which ought to have been effected from 01.01.2006 as per the said Government order. If for any reason, the monetary benefits has been given to the petitioner due to mistake committed by any of the person in-charge, the same shall



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not be recovered in view of the decision of the Supreme Court in *State of Punjab and others etc., vs. Rafiq Masih (White washer's)* and the consequential Government orders issued in also G.O.Ms.No.286 dated 28.08.2018. Hence, in all probabilities and possibilities, the 4th respondent ought not to have issued the impugned recovery order. It is made clear that there is no refixation of salary also, because, there is no dispute made from the side of the respondents that pay fixation has been made wrongly. Hence, the impugned order is illegal, it is liable to be set aside.

6. Accordingly, the writ petition is allowed and the impugned order dated 19.01.2024 is set aside. If any recovery is made pursuant to the impugned order, the same shall be reimbursed to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently connected Miscellaneous petitions are closed.

03.06.2024

NCC : Yes/No
Index : Yes/No
RR



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R.N.MANJULA, J.

RR

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