



W.P.(MD)No.6652 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.6652 of 2019

and

W.M.P.(MD).Nos.5313 & 5314 of 2019

S.P.Ruban

...Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai 600 009.

2.The Director of School Education,
DPI Campus,
College Road,
Chennai - 600 006.

3.The District Elementary Educational Officer
(Presently as District Educational Officer),
Valliyoor, Tirunelveli District.

4.The Assistant Elementary Educational Officer,
(Presently as Block Educational Officer),
Valliyoor Range, Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for
issuance of Writ of Certiorarified Mandamus, to call for the records relating to



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the impugned proceedings issued by the third Respondent in Na.ka.No.1933/A1/ 2016, dated 30.06.2016 and the subsequent order issued by the fourth respondent in Na.Ka.No.1408/A1/2017, dated 29.08.2017 and to quash the same and consequently directing the respondents to make payment of salary to the Petitioner from May 2016 in the post of Primary School Headmaster along with interest.

For Petitioner : Mr.F.Deepak

For Respondents : Mr.T.Amjad Khan,
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned recovery order, dated 30.06.2016, passed by the third respondent and the subsequent order, dated 29.08.2017, passed by the fourth respondent, calling upon the petitioner to pay a sum of Rs.16,97,666/- (Rupees Sixteen Lakhs Ninety Seven Thousand Six Hundred and Sixty Six only) for the alleged excess payment made to him, while he was in service from 01.04.1998 to 31.12.2015.

2. The petitioner has challenged the impugned order on the ground of violation of principles of natural justice. According to the petitioner, without issuing any show cause notice to him, the impugned order had been passed.



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3. Learned Government Advocate appearing for the respondents has placed on record the judgment of the Hon'ble Supreme Court, dated 24.03.2023 rendered in ***Civil Appeal No.1951 / 2023*** in the case of ***the State of Tamil Nadu and others Vs., Nehru Middle School and another*** and he would submit that the Hon'ble Supreme Court has made it clear that when the person is not having requisite teaching experience for five years for the post of Primary School Headmaster, the refusal to approve the appointment is correct. However, as seen from the impugned order, no reasons have been given and it is a non speaking order. The contentions as raised by the learned Government Advocate appearing for the respondents before this Court, viz., that the petitioner did not have requisite teaching experience has not been disclosed in the impugned order. Admittedly, no show cause notice was issued to the petitioner calling upon him to submit an explanation with regard to the alleged excess payment made by the respondents. In the impugned order, a huge sum of Rs.16,97,666/- (Rupees Sixteen Lakhs Ninety Seven Thousand Six Hundred and Sixty Six only) is attempted to be recovered from the petitioner on account of the alleged excess payment made by the respondents to the petitioner.

4. On the ground of violation of principles of natural justice and on account of the fact that the impugned order is a non-speaking order, the same



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will have to be quashed and the matter will have to be remanded back to the respondents for fresh consideration on merits and in accordance with law within a time frame to be fixed by this Court. However, the respondents will have to issue a show cause notice to the petitioner calling upon him to submit his explanation with regard to the proposed recovery of a sum of Rs.16,97,666/- (Rupees Sixteen Lakhs Ninety Seven Thousand Six Hundred and Sixty Six only) from the petitioner for the alleged excess payment made to him and sufficient opportunity ought to have been granted to the petitioner to submit his explanation and only thereafter, after giving due consideration to the explanation submitted by the petitioner, final orders can be passed by the respondents with regard to the alleged recovery of Rs.16,97,666/- (Rupees Sixteen Lakhs Ninety Seven Thousand Six Hundred and Sixty Six only) from the petitioner.

5. In the result, the impugned order, dated 30.06.2017, passed by the third respondent and the subsequent order, dated 29.08.2017, passed by the fourth respondent are hereby quashed and the matter is remanded back to the third respondent for fresh consideration. The third respondent shall issue show cause notice to the petitioner with regard to the claim of Rs.16,97,666/- (Rupees Sixteen Lakhs Ninety Seven Thousand Six Hundred and Sixty Six only) and on



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receipt of the said show cause notice, the petitioner shall submit a reply within a period of two weeks to the respondents stating his objections with regard to the claim and on receipt of the said explanation within the stipulated time as directed by this Court, the respondents after giving due consideration to the said explanation, shall pass final orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of the explanation from the petitioner.

6. With the aforesaid direction, the Writ Petition is disposed of. No costs.

Consequently, the connected miscellaneous petitions are closed.

10.09.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG

To

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ABDUL QUDDHOSE, J.

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