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W.P.(MD) No.19369 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.19369 of 2019

and

W.M.P.(MD) Nos.15807 & 15808 of 2019

N.Gomagan

... Petitioner

-vs-

1.The Director of Elementary Education
O/o.The Director of Elementary Education
DPI Campus, Chennai-5

2.The Block Education Officer
O/o.The Block Education Officer
Mandapam
Ramanathapuram District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned order in Ref.Na.Ka.No.969/A1/2019 dated 19.07.2019, on the file of the second respondent and quash the same as illegal and consequently for a direction directing the respondents to provide the incentive increments for



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the higher qualification of M.A(History) Degree acquired by the petitioner within the time stipulated by this Court.

For Petitioner : Mr.G.Karthik
for M/s.Lajapathi & Roy & Associates

For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

This writ petition has been filed challenging the order dated 19.07.2019, passed by the second respondent, under which, the petitioner has been directed to refund the respondents in one installment the excess payments made to him towards additional increments.

2. According to the respondents, as seen from the impugned order, the petitioner is not entitled to be paid additional increments. But, despite the same, payments were made to him towards additional increments, which are not proper and therefore, the same will have to be refunded by the petitioner.



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3. The petitioner has challenged the impugned order, on the ground of violation of the principles of natural justice, as no show cause notice was issued to him prior to the passing of the impugned order. The petitioner also claims that he is not liable to refund the alleged excess amounts to the respondents as per the impugned order.

4. A counter affidavit has been filed by the respondents reiterating the contentions of the impugned order. According to the respondents, only in accordance with law, the impugned order has been passed.

5. Admittedly, as seen from the impugned order, no show cause notice was issued to the petitioner prior to the passing of the impugned order. The impugned order directs the petitioner to refund the payments made to him towards additional increments. The additional increments alleged to have been made by the respondent pertain to the year 2000, which have been attempted to be recovered by the respondents as per their impugned order dated 19.07.2019. Therefore, on a *prima facie* consideration, this Court finds that after a lapse of long number of years, the respondents are attempting to recover the alleged excess payments made to the petitioner that too without



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issuing any prior notice. It is very clear that principles of natural justice have been violated by the respondents as no show cause notice was issued to the petitioner prior to the passing of the impugned order. If a show cause notice was issued, the petitioner would have submitted his explanation by giving reasons as to why the recovery cannot be made. In view of the fact that principles of natural justice have been violated and there is a long lapse of time between the dates on which the alleged excess payments were made to the petitioner and the date of the impugned order, this Court is of the considered view that the impugned order has to be quashed and the matter has to be remanded back to the file of the second respondent for fresh consideration on merits and in accordance with law, after adhering to the principles of natural justice by issuing a show cause notice to the petitioner to enable him to submit his explanation and to deny his liability.

6. In the result, the impugned order, dated 19.07.2019, passed by the second respondent, is hereby quashed. The matter is remanded back to the file of the second respondent for fresh consideration on merits and in accordance with law, after adhering to the principles of natural justice. The second respondent is directed to pass final orders on merits and in accordance



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with law, after issuing a show cause notice to the petitioner to enable him to submit his explanation denying his liability to refund the amounts as claimed by the respondents and the respondents shall pass final orders, after giving due consideration to the objections raised by the petitioner with regard to the claim made by them, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

09.09.2024

(1/2)

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The Director of Elementary Education,
O/o.The Director of Elementary Education,
DPI Campus, Chennai-5.
- 2.The Block Education Officer,
O/o.The Block Education Officer,
Mandapam,
Ramanathapuram District.



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ABDUL QUDDHOSE, J.

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