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W.P.(MD) No.11882 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.11882 of 2017

and

W.M.P.(MD) No.9149 of 2017

T.Banumathi

... Petitioner

-vs-

- 1.The Government of Tamil Nadu
rep.by Secretary to Government
School Education Department
Fort St.George
Chennai-600 009
- 2.The Director of School Education
College Road, Chennai-600 006
- 3.The Chief Educational Officer
Sivagangai District, Sivagangai
- 4.The Assistant Elementary
Educational Officer
Kalaiyarkovil
Sivagangai District



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5.The Head Master
Government High School
Kallurani
Sivagangai 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 on the file of the first respondent in relation to the proceedings issued in Letter (Ms).No.129, School Education (PK5(2) 2013-1 dated 17.07.2013 and quash the same insofar as the petitioner is concerned and issue a consequential direction to the respondents to grant incentive increment for M.Phil., Degree from the date of following last date of the examination.

For Petitioner : Mr.P.Muthusamy

For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

This writ petition has been filed challenging the order, dated 17.07.2013, passed by the first respondent, clarifying that incentive increment for B.T.Assistant has to be sanctioned from the date of issuance of G.O.(1D) No.18, School Education (E2) Department, dated 18.01.2013.



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2. It is seen that subsequent to the impugned clarification of the first respondent, the Regional Accounts Officer (Audit), School Education Department, Madurai-2, by his proceedings dated 19.12.2016, has directed the fifth respondent to take appropriate and swift action on the excess payments made to the petitioner towards incentive increment.

3. The petitioner claims that she is entitled for incentive increment for possessing M.Phil., Degree from the date of the last examination as per G.O.(1D) No.18, School Education (E2) Department, dated 18.01.2013, which was issued in continuance of G.O.Ms.No.42, Education Department, dated 10.01.1969. According to the petitioner, the first respondent, by way of a clarification letter, cannot amend or alter or change the principle or scheme for providing incentive increment.

4. A counter affidavit has been filed by the respondents denying the contentions of the petitioner. The respondents would, once again, reiterate that as per the impugned clarification issued by the first respondent, the petitioner is not entitled for grant of incentive increment for possessing



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M.Phil., Degree from the last date of the examination and only from the date of issuance of G.O.(1D) No.18, School Education (E2) Department i.e. 18.01.2013, she is entitled for grant of incentive increment and therefore, the Regional Accounts Officer (Audit), School Education Department, Madurai-2, has passed an order dated 19.12.2016, directing the fifth respondent, to recover the excess payments made towards incentive increment, which was erroneously granted to the petitioner during 2014-2015 and 2015-2016.

5. However, as seen from the recovery proceedings of the Regional Accounts Officer (Audit), School Education Department, Madurai-2, dated 19.12.2016, no opportunity of hearing was granted to the petitioner and no show cause notice was also given to her.

6. The alleged excess payments made by the respondents to the petitioner pertain to the period between 2014-2015 and 2015-2016, whereas the recovery proceedings came to be passed on 19.12.2016. The petitioner has also raised several grounds in this writ petition challenging the impugned clarification issued by the first respondent. However, before passing the recovery proceedings, the petitioner ought to have been granted an



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opportunity of hearing to contest the claim of the respondents, which has not been done by the respondents in the case on hand. Since the petitioner was not heard before passing the recovery proceedings, this Court is of the considered view that the recovery proceedings of the Regional Accounts Officer (Audit), School Education Department, Madurai-2, addressed to the fifth respondent, dated 19.12.2016, though the same is not challenged in this writ petition, in the interest of justice, has to be quashed and the matter has to be remanded back to the Regional Accounts Officer (Audit), School Education Department, Madurai-2, for fresh consideration, on merits and in accordance with law, after affording an opportunity of hearing to the petitioner.

7. In the result, recovery proceedings of the Regional Accounts Officer (Audit), School Education Department, Madurai-2, dated 19.12.2016, addressed to the fifth respondent, though the same is not challenged in this writ petition, in the interest of justice, is hereby quashed and the matter is remanded back to the Regional Accounts Officer (Audit), School Education Department, Madurai-2, for fresh consideration on merits and in accordance with law. The Regional Accounts Officer (Audit), School Education Department, Madurai-2, after issuing a show cause notice to the petitioner



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calling for her explanation with regard to the recovery of excess payments, shall pass final orders, on merits and in accordance with law, after considering the explanation if submitted by the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

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

19.09.2024

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

Note to Office:

Mark a copy of this order to the the
Regional Accounts Officer (Audit),
School Education Department,
Madurai-2

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To:

- 1.The Secretary to Government,
School Education Department,
Fort St.George,
Chennai-600 009.
- 2.The Director of School Education,
College Road, Chennai-600 006.



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ABDUL QUDDHOSE, J.

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