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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD). Nos.11899 to 11901 of 2022 and
WMP(MD) Nos.8459, 8460, 8463, 8464, 8465 & 8466 of 2022,
10784, 10794 & 10804 of 2023

Y.Stella Navis ... Petitioner in WP(MD) No.11899 of 2022

T.Gnana Jeba Malar ... Petitioner in WP(MD) No.11900 of 2022

D.Krishna Kumari ... Petitioner in WP(MD) No.11901 of 2022

Vs

1.The Chief Educational Officer,
Kanyakumari District.

2.The District Educational Officer,
Nagercoil, Kanyakumari District.

3.The Block Educational Officer,
Suseendharam,
Kanyakumari District.

...Respondents in all WPs

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COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Certiorari, to call for the records pertaining to the Impugned Orders in Ni.Mu.No.000760/A4/2022, Ni.Mu.No.000761/A4/2022 and Ni.Mu.No.001205/A4/2022 dated 18.03.2022 on the file of the Respondent No.2 and the Consequential Impugned Orders in Ni.Mu.No.1399/A4/2021, Ni.Mu.No.1400/A4/2021 and Ni.Mu.No. 1400/A4/2021 dated 30.05.2022 on the file of the Respondent No.3 and quash the same as illegal.

For Petitioners : Mr.Karthick
For M/s.Lajapathi Roy Associates
For Respondents : Mr.P.T.Thiraviam
Government Advocate
(In all WPs)

C O M M O N O R D E R

The petitioners were appointed as Secondary Grade Teachers in the year 1995 and they were provided with selection grade in the post of Secondary Grade Teacher in the year 2005. They were also promoted as Primary School Headmasters in the year 2011. The petitioners with a grievance that their junior one Christhu

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Das, a Primary School Headmaster was receiving a higher pay than the petitioners, have made a request for revision of scale of pay as that of him, and the same was considered by the respondents. Accordingly, the scale of pay of these petitioners have been revised by the District Elementary Educational Officer, Nagercoil in his proceedings in RC.No.1247/A4/2018, dated 30.05.2018. However, on audit objection, it was found that the revision of scale of pay made by the District Elementary Educational Officer, Nagercoil was wrong and the same was corrected by the orders impugned in these writ petitions. The order of revision/regularization of scale of pay, dated 18.03.2022 and the order of recovery, dated 30.05.2022 are challenged in these writ petitions.

2.The learned Counsel appearing for the petitioners submits that these impugned orders have been passed, without providing an opportunity to these petitioners and no notice has been issued to them before passing the impugned orders and therefore, the orders impugned in these writ petitions are liable to be set aside.

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3.The learned Government Advocate appearing for the respondents by referring to the order passed by this Court in WP(MD) No.41622 of 2016, dated 07.11.2022 submits that there is no provision in the existing rules and guidelines for stepping up of the pay on par with an employee working in another Unit of Establishment and therefore by comparing the scale of pay of one Christhudas, who has been appointed in a different Unit, the revision of scale of pay provided to the petitioner has now been regularised and also an order of recovery has been passed. The learned Government Advocate further submits that the Block Educational Officer, Suchindram has issued showcase notices to these petitioners, vide R.Dis.No.1399/A4/2021, R.Dis.No.1400/A4/2021 and R.Dis.No.1396/A3/2021 dated 06.04.2022 and thereafter the wrong fixation of pay of the petitioners was regularised and refixed on 19.05.2022. Therefore, there is no need to interfere with the orders impugned in these writ petition.

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4.This Court considered the rival submissions made and also perused the materials placed on record.

5.The petitioners, who were promoted to the post of Primary School Headmasters in the year 2011 have submitted an application for revision of scale of pay, by comparing the scale of pay of one Christhu Das, who was their junior and on the request of the petitioners, the scale of pay of the petitioners has been revised by the District Elementary Educational Officer, Nagercoil, by his proceedings in RC.No.1246/A4/2018, RC.No.1247/A4/2018 and RC.No.1248/A4/2018, dated 30.05.2018. During audit objection, it was found that the revision of scale of pay made in the proceedings, dated 30.05.2018, by comparing the scale of pay of Christhu Das, who was working in different Unit of Establishment was not correct. Therefore, the respondents claim that show cause notices, dated 06.04.2022 have been issued to the petitioners by the Block Educational Officer, Suchindram and thereafter, the wrong fixation of the scale of pay was regularised and refixed on 18.03.2022 and

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consequently an order of recovery has also been passed by order, dated 30.05.2022. The petitioners claim that before passing the impugned orders, no notice was issued to these petitioners and no opportunity was provided to them. However, on the side of the respondents, a stand has been taken that prior notices have been issued to the petitioners on 06.04.2022, however, it is not placed before this Court. This Court is satisfied that the impugned orders have been passed without providing an opportunity to the petitioners. According to the respondents, it is clarified in the proceedings of the Director of Tamil Nadu Elementary Education, Chennai in Na.Ka.No.16907/E1/2016, dated 11.08.2016 that junior-senior pay anomaly should not be made for transferred teachers from different Block or District. Here, in the present case, the scale of pay has been revised considering the scale of pay of one Christhudas, who belongs to a different block. Therefore, on audit objection, it was corrected. Once an adverse order has been passed as against these petitioners, by revising the scale of pay provided to them, in all fairness, the respondents ought to have provided an opportunity of

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hearing to these petitioners, before passing the impugned orders.

6.In view of the above, the impugned orders passed by the District Educational Officer, Nagercoil, Kanyakumari District, in Ni.Mu.No.000760/A4/2022, Ni.Mu.No.000761/A4/2022 and Ni.Mu.No.001205/A4/2022 dated 18.03.2022 and the recovery orders passed by the Block Educational Officer, Suseendharam in Ni.Mu.No.1399/A4/2021, Ni.Mu.No.1400/A4/2021 and Ni.Mu.No. 1400/A4/2021 dated 30.05.2022 are set aside with liberty to the respondents to pass orders afresh, after providing an opportunity to the petitioners. No costs. Consequently, connected Miscellaneous Petitions are closed.

07.01.2025

NCC:Yes/No
Index:Yes
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To

1.The Chief Educational Officer,
Kanyakumari District.

2.The District Educational Officer,
Nagercoil, Kanyakumari District.

3.The Block Educational Officer,
Suseendharam,
Kanyakumari District.

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B.PUGALENDHI, J.

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Common Order made in
WP(MD). Nos.11899 to 11901 of 2022 and
WMP(MD) Nos.8459, 8460, 8463, 8464, 8465 & 8466 of 2022,
10784, 10794 & 10804 of 2023

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