

W.P.(MD) No.24802 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 11.07.2025

Pronounced On : 18.07.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. (MD) No.24802 of 2016

and

W.M.P. (MD) Nos.17945 of 2016 &

W.M.P.(MD)Nos.16737 & 16684 of 2023

N.Preetha,
BT Assistant,
Panchayat Union Middle School,
Velayuthampalayam, Karur Union,
Karur District.

...Petitioner

Vs.

The Additional Assistant Elementary
Educational officer
Karur Union, Karur District.

... Respondent

PRAYER in W.P:

To issue a Writ of Certiorari or any other Writ or Order or Direction in the nature of Writ of Certiorari, calling for the records relating to the impugned proceedings in Na.Ka.No. 208 /A1 /2016 dated 07.11.2016 of the respondent herein and quash the same and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case and thus render justice.



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PRAYER IN W.M.P.(MD) No.17945 of 2016:

WEB COPY To grant an interim stay of all further proceedings pursuant to the impugned proceedings in Na.Ka.No.208/A1 /2016 dated 07.11.2016 of the respondent herein and thus render Justice.

PRAYER IN W.M.P.(MD) No.16737 of 2023:

To grant leave to the petitioner to file counter affidavit in the writ petition in W.P.(MD) No.24802 of 2016 and thus render justice.

PRAYER IN W.M.P.(MD) No.16684 of 2023:

To vacate the interim stay granted in W.M.P(MD). No. 17945 of 2016 in W.P.(MD).No. 24802 of 2016, dated 23.12.2016 and pass such further or other orders as this Court may deem fit and proper in the facts and circumstances of the above case and thus render justice.

APPEARANCE OF PARTIES:

For Petitioner : Mr. T. Pon Ramkumar

For Respondent : Mr.J.Ashok
Additional Government Pleader

J U D G M E N T

Heard.

2. This writ petition has been filed by the petitioner, a B.T. Assistant at the Panchayat Union Middle School, Velayuthapalayam,

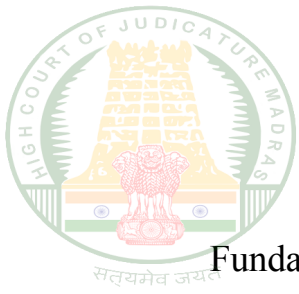


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Karur District, challenging the proceedings dated 07.11.2016 issued by the respondent, whereby a recovery of Rs. 750/- per month, drawn as personal pay from 01.04.2012 onwards, was directed. The recovery was ordered on the ground that the inclusion of personal pay in the petitioner's pay fixation on promotion was erroneous.

3. The petitioner was initially appointed as a Secondary Grade Teacher on 28.09.2004, and her services were approved with effect from 01.06.2006. While serving in the said post, she was sanctioned a special allowance of Rs.500/- per month pursuant to G.O.(Ms.)No.270 Finance (Pay Cell) Department dated 26.08.2010. This was notionally given effect from 01.01.2006 and with monetary benefit from 01.08.2010. Subsequently, by G.O.(Ms.)No.23 Finance (Pay Cell) Department dated 12.01.2011, the Government enhanced the special allowance to Rs. 750/- and reclassified it as personal pay with effect from 01.01.2011. The said G.O. specifically extended the benefit to all Secondary Grade Teachers with the clear intention of treating the amount as part of their entitlements.

4. On 28.12.2011, the petitioner was promoted as B.T. Assistant (Mathematics). She exercised her option under Rule 22-B of the



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Fundamental Rules and opted for pay fixation in the promoted post with effect from 01.04.2012. Accordingly, her pay was fixed by including the Rs. 750/- personal pay in the basic pay of the promotional post. This was not a discretionary act of the petitioner or her school, but was done in strict adherence to Government clarification issued through Letter No. 8764/CMPC/2012-1 dated 18.04.2012 by the Finance Department, wherein it was unambiguously stated that in cases where a Secondary Grade Teacher drawing personal pay of Rs.750/- is promoted as B.T. Assistant after 01.01.2011, such personal pay shall be added to the basic pay in the promoted post. This was later reaffirmed by the Secretary to Government, Finance Department, by proceedings dated 22.03.2016. Pursuant to this, the Director of Elementary Education issued a circular dated 15.04.2016, confirming the pay fixation procedure and implementing the above clarifications uniformly across the department.

5. Despite the above, the impugned proceedings dated 07.11.2016 were issued to the petitioner, directing recovery of the said amount on the ground of audit objection. Admittedly, no show cause notice was issued nor any opportunity of hearing granted to the petitioner prior to passing the order. The learned counsel for the petitioner submitted that the entire



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fixation was done in accordance with Government policy and circulars, and the petitioner cannot be penalised for drawing a sum that was legally sanctioned and paid by the department itself. The learned counsel also submitted that the recovery violates the principle of natural justice, having been issued unilaterally without notice. Heavy reliance was placed on G.O. (Ms.) No. 23 dated 12.01.2011 and the subsequent clarifications of 2012 and 2016. It was further argued that there was no misrepresentation or fraud on the part of the petitioner and that she acted entirely in accordance with departmental instructions.

6. The learned Additional Government Pleader, on instructions would not refute the circular dated 15.04.2016 issued by the Director of Elementary Education, which is in favour of the petitioner.

7. This Court finds considerable merit in the petitioner's case. The recovery sought to be made pertains to a sum that was included in the petitioner's pay pursuant to a valid G.O. and clarifications issued by the competent authorities. The Government itself, through the Finance Department and the Directorate of Elementary Education, had clarified and implemented the manner in which personal pay of Rs.750/- granted to



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Secondary Grade Teachers was to be added while fixing pay in the cadre of B.T. Assistant. It is not the case here that petitioner manipulated the records or misrepresented her entitlement. On the contrary, the records show that her case was processed in the usual course of administrative approval. The impugned order is also vitiated by breach of natural justice. No prior notice or opportunity was given to the petitioner to explain her position or respond to the audit observation.

8. It is settled law that recovery from employees who have not played any role in the overpayment would cause undue hardship and be legally unsustainable. The Court recognized that employees who innocently receive salary fixed by the employer should not be penalised for administrative errors. The present case squarely falls within that category. The petitioner was paid an amount she was told she was entitled to. The departmental instructions existed and were acted upon.

9. In light of the above, this Court holds that the impugned order dated 07.11.2016 is unsustainable, both on facts and in law. The recovery is contrary to the very clarifications issued by the Government and its departments, and the petitioner cannot be faulted for accepting payments



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sanctioned and processed by the employer. The recovery is also vitiated by violation of the principles of natural justice. Accordingly, the proceedings in Na.Ka.No.208/A1/2016 dated 07.11.2016 are quashed.

10. Thus, the writ petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

18.07.2025

Index: Yes / No
Speaking Order / Non-speaking Order
Neutral Citation : Yes / No
LS

To

The Additional Assistant Elementary
Educational officer
Karur Union,
Karur District.



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DR. A.D. MARIA CLETE, J.

LS

Pre-delivery Judgment made in
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and
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