

(2013) 09 MAD CK 0022

In the Madras High Court

Case No : Writ Petition No. 13657 of 2007 (T) (O.A. No. 2022 of 2003)

K. Sundaragopal

APPELLANT

Vs

The District Elementary Educational Officer and The
Additional Assistant Elementary Educational Officer

RESPONDENT

Date of Decision : 25-09-2013

Acts Referred:

Citation : (2013) 09 MAD CK 0022

Hon'ble Judges : K. Ravichandrababu, J

Bench : Single Bench

Advocate : N. Sakthivel for R1 and R2, for the Respondent

Final Decision : Allowed

Judgement

K. Ravichandrababu, J.—In both these writ petitions, the respective petitioners are aggrieved against the order cancelling the incentive

increments given to them earlier. The case of the petitioner in W.P. No. 13657 of 2007 is as follows:

1.1. He was working as a Secondary Grade Teacher in Panchayat Union Middle School, P. Muthampatti, Kandhili Block, Vellore District.

Thereafter, he was appointed as a Secondary Grade Teacher on 26.7.1995. He was selected by the Teachers Recruitment Board in the year

1995. He passed B.A., B.Ed., and M.Ed., examinations. He was allowed one incentive increment for acquiring B.Ed., qualification in July 1996.

He was allowed one more incentive increment for acquiring M.Ed., qualification in May, 1997. In B.A., degree course, the petitioner had studied

Economics as the main subject. He was allowed the said incentive increments from the date of passing the examinations and he has been drawing

pay with the said increments since then. While that being so, the impugned order cancelling the said incentive increments and directing recovery of

the incentive increments already paid to the petitioner came to be passed. The said impugned order was in total violation of the principles of natural

justice, as no notice was issued to the petitioner earlier.

2. In W.P. No. 13658 of 2007, the case of the petitioner is as follows:

2.1. The petitioner was working as Secondary Grade Teacher in Panchayat Union Elementary School, Periyakannalappatti, Kandhili Block, Vellore

District. She was then appointed as Secondary Grade Teacher on 20.7.1997. She passed B.A., B.Ed., and M.Ed., examinations. She was

allowed one incentive increment for acquiring B.Ed., qualification in July 1997 and she was allowed one more incentive increment for acquiring

M.Ed., qualification in May, 1999. In B.A., degree course, the petitioner had studied Economics as the main subject. The petitioner was allowed

the said incentive increments from the date of passing of the said examinations and she has been drawing pay with the said increments since then.

While that being so, the impugned order came to be passed cancelling the said incentive increments and directing the recovery of the same from the

salary of the petitioner. The said impugned order was passed in total violation of the principles of natural justice.

3. Apart from raising the ground of violation of principles of natural justice, the petitioners had also raised so many other grounds, while challenging

the impugned orders, on merits.

4. A counter affidavit has been filed in both these writ petitions, wherein, the respondents justified the orders of cancellation and recovery. But the

counter affidavit is totally silent about the ground raised by the petitioners with regard to the violation of principles of natural justice. Needless to

say that an order prejudicial to the interest of the party could be passed only after putting him on notice in compliance of principles of natural

justice. In these cases, the petitioners have specifically raised the ground that no notice was given to them before passing the impugned orders and

no opportunity to show cause was given by the respondents before cancelling the incentive increments and ordering recovery. When such a ground

was specifically raised, it is for the respondents to deny the same, if at all, such notice was issued to the petitioners before passing the impugned

orders. As already stated supra, the counter affidavit is totally silent on this issue. Hence this Court has to hold that no notice was issued to the petitioners. Therefore, there is a clear violation of principles of natural justice in these cases. Solely on the ground of violation of principles of natural justice, I am inclined to set aside the impugned orders and remit the matters back to the authorities concerned for passing fresh orders after giving due opportunity to the petitioners. Accordingly, the impugned orders are set aside and the matters are remitted back to the second respondent to pass fresh orders, on merits and in accordance with law, after giving due opportunity of hearing to the petitioners.

With these above observations, the writ petitions are allowed. No costs.