IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

WP(C).No. 20260 of 2010 (F)

PETITIONER(S):

SMT.KRISHNAVENI AMMAL,
W/O.N.KRISHNANKUTTY, AGED 59 YEARS,
HEADMISTRESS (RETD) GOVT.P.V.H.SCHOOL, PERUMKULAM,
KOTTARAKKARA, KOLLAM AND RESIDING AT NANDANAM,
NEDUVATHUR, NEELESWARAM P.O., KOTTARAKKARA.

BY ADVS.SRI.N.UNNIKRISHNAN
SRI.C.O.JOSE.

RESPONDENT(S):

1. THE STATE OF KERALA,
REP. BY SECRETARY TO THE GOVERNMENT,
GENERAL EDUCATION (L) DEPARTMENT, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

2. THE ACCOUNTANT GENERAL OF KERALA,
THIRUVANANTHAPURAM - 695 039.

3. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
THIRUVANANTHAPURAM - 695 001.

4. THE DEPUTY DIRECTOR OF EDUCATION,
KOLLAM - 691 001.

5. THE TREASURY OFFICER,
KOTTARAKKARA - 691 506.

6. THE HEADMISTRESS,
P.V.H.SCHOOL,
PERUMKULAM, KOTTARAKKARA - 691 506.

BY GOVERNMENT PLEADER SRI.RINNY STEPHEN CHAMAPARAMBIL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT-P1:	TRUE COPY OF HANDING AND TAKING OVER CHARGE REPORT OF TRANSFER OF CHARGE ON 30/03/2007 SIGNED BY RELIEVING OFFICER SMT.M.SHEELAKUMARY.
EXHIBIT-P2:	TRUE COPY OFORDER NO.A2-21086/07/L.DIS. DATED 01/10/2007.
EXHIBIT-P3:	EXTRACT PARA-11 OF LETTER NO.O.A1(3)19155/07 DATED 09/10/2007 ISSUED BY THE 4TH RESPONDENT TO 6TH RESPONDENT.
EXHIBIT-P4:	TRUE COPY OF LETTER NO.57/09-10 DATED 30/06/2007.
EXHIBIT-P5:	TRUE COPY OF NON-PAYMENT CERTIFICATE DATED 20/05/2009.
EXHIBIT-P6:	TRUE COPY OF LETTER DATED 27/03/2009 SENT TO THE 4TH RESPONDENT.
EXHIBIT-P7:	TRUE COPY OF LETTER DATED 29/06/2009 TO THE 4TH RESPONDENT.
EXHIBIT-P8:	TRUE COPY OF CIRCULAR NO.73/99/FIN. DATED 30/11/1999.
EXHIBIT-P9:	TRUE COPY OF ORDER G.OP.(P) NO.185/2002/FIN. DATED 27/03/2002.
EXHIBIT-P10:	TRUE COPY OF CERTIFICATE DATED 26/11/2010 ISSUED BY THE STORE KEEPER, DISTRICT TEST BOOK DEPOT, KOTTARAKKARA.
EXHIBIT-P11:	TRUE COPY OF LETTER NO.D5/8546/2002 DATED 24/07/2008.
EXHIBIT-P12:	TRUE COPY OF EXPLANATION DATED 15/09/2008 TO THE 4TH RESPONDENT.
EXHIBIT-P13:	TRUE COPY OF ORDER NO.P-08/2100707604/5/P/07/10/ 70009274 B DATED 17/03/2008.

RESPONDENT(S)' EXHIBITS :

EXHIBIT-R4(A):	TRUE COPY OF ORDER NO.OA1(3)19155/07 DATED 02/04/2009.
EXHIBIT-R4(B):	THE PROCEEDINGS OF THE DISTRICT PROJECT OFFICER, SSA, KOLLAM.
EXHIBIT-R4(C):	TRUE COPY OF LETTER NO.C1/11531/2008.
EXHIBIT-R4(D):	LIABILITY CERTIFICATE OF THE PETITIONER TO THE DEPUTY DIRECTOR ON 19/10/2009.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 20260 of 2010

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Dated this the 22nd day of May, 2015

JUDGMENT

The petitioner, who had joined the Government service as an HSA on 20.11.1978, retired as Head Mistress on 31.03.2007. When it came to the payment of retirement benefits to the petitioner, the respondents, by Ext.P2 order dated 01.10.2007, sanctioned all the retirement benefits, except the DCRG, to the petitioner. It was pointed out that there was an audit objection with regard to an amount of Rs.92,202/-, which had been sanctioned by way of reimbursement to one Jayasree, a Junior Hindi Teacher. The said reimbursement was sanctioned by the 3rd respondent, pursuant to a request made by the said Jayasree for reimbursement of expenses incurred for a heart operation. The pleadings on record would indicate that, there is no dispute with regard to the fact that the said Jayasree was entitled to the reimbursement claimed in an amount of Rs.92,202/-. In fact, the counter affidavit of the 4th respondent would show that Smt.Jayasree had furnished a bill for medical reimbursement to an extent of Rs.92,202/-, while she had availed of an interest free loan amounting to Rs.1,00,000/- initially. The differential amount of Rs.7,800/- was subsequently remitted by the said Smt.Jayasree to the treasury so as to reconcile the payments, that she was entitled to, from the payments that were advanced to her. The issue against the petitioner was with regard to the non submission of a reconciliation statement, in respect of the above advancement of funds to Smt.Jayasree. It is the case of the respondent that, on account of the non submission of the reconciliation statement by the petitioner, who was the Head Mistress of the School during the relevant time, there was substantial loss caused to the Government. It was under these circumstances, that while sanctioning the retirement benefits due to the petitioner, the amount of Rs.92,202/-, that was claimed by Smt.Jayasree by way of reimbursement, was sought to be withheld from the DCRG payable to the petitioner. In the writ petition, the prayer of the petitioner is for release of the amounts withheld by the respondents from the DCRG, that is payable to her. It would appear that pursuant to an interim order passed by this Court, from out of the total sanctioned DCRG amounting to Rs.2,87,280/-, the petitioner was paid the DCRG amount less the amount of Rs.92,202/- referred to above. At the stage of hearing, the petitioner seeks a direction to the respondents to release the balance amounts that have been withheld by the respondents.

2. A counter affidavit has been filed on behalf of the 4th respondent, wherein, as already noted above, it is stated that Smt.Jayasree had furnished a bill for medical reimbursement amount to Rs.92,202/- and the balance amount of Rs.7,800/- was remitted by her. It is pointed out that the petitioner, in her capacity as Head Mistress of the School during the relevant period, had not presented a reconciliation statement in respect of the amounts advanced to the aforesaid Smt.Jayasree before the treasury. In paragraph 4 of the counter affidavit, after mentioning the said fact, it is stated that the irresponsible attitude of the petitioner resulted in a non-reconciliation of Rs.92,202/- and further, that the loss sustained to the Government has to be made good and it is under these circumstances, that the amount was fixed as liability of the petitioner.

3. I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for the respondents.

4. On a consideration of the facts and circumstances of the case and the submissions made across the bar, and in

particular the averments in the counter affidavit of the 4th respondent, I find that this is a case where, the respondents do not dispute the fact that Smt.Jayasree was entitled by way of reimbursement to an amount of Rs.92,202/- from the amount of Rs.1,00,000/- that was advanced to her through the petitioner. It is also not in dispute that the said Smt.Jayasree had remitted an amount of Rs.7,800/- to the treasury as the amounts spent by her for medical treatment was only Rs.92,202/-. If it is a fact that Smt.Jayasree was entitled to claim reimbursement of Rs.92,202/- then it is apparent that, merely on account of the non submission of a reconciliation statement by the petitioner, there was no pecuniary loss caused to the Government. Under the said circumstances, I am of the view that the mere technical lapse, even assuming the same was occasioned by an omission on the part of the petitioner, is not so serious as to warrant a withholding of the amount of Rs.92,202/- from the retirement benefits that are payable to her by way of DCRG. There is also another aspect of the matter. The counter affidavit filed by the respondent does not indicate as to whether the steps for recovery from the DCRG were effected in due compliance with the provisions of the KSR. It is the specific case of the petitioner that the recovery steps initiated against her were beyond the statutory period of limitation prescribed under the KSR. If that be the case, then that is yet another ground on which the petitioner must succeed in the writ petition.

Resultantly, the writ petition is allowed by declaring that the petitioner is entitled to receive the DCRG amounts, that are due to her, as borne out in Ext.P13 order of the Government. The 1st respondent shall ensure that the petitioner is paid the differential DCRG amount of Rs.92,202/- within a period of two months from the date of receipt of a copy of this judgment. I make it clear that, if the petitioner is not paid the aforesaid amount within the period of two months indicated above, then the said DCRG amount payable to the petitioner shall carry interest at the rate 12% per annum from the date immediately following the expiry of the two months indicated above till the date of actual payment to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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