

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.27323 of 2015

M.Palanisamy

.. Petitioner

Vs

1.The Chief Engineer,
Agricultural Engineering Department,
Anna Salai, Nandanam,
Chennai-600 035.

2.The Assistant Executive Engineer,
Government Tractor Workshop,
Vellore-632 002.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of mandamus to direct the respondents to release the withheld DCRG amount of Rs.3,89,480/- due to the petitioner along with up-to-date interest within a time frame.

For Petitioner ... Mr.K.M.Ramesh

For Respondents ... Mr.S.Gunasekaran,
Govt. Advocate.

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner was initially appointed as Time Office Worker on 08.07.1989 and after completion of ten years of service, was conferred with selection grade scale of pay vide proceedings dated 08.07.1999. The petitioner was transferred and posted as Hammerman Grade II on 09.07.1999 in Government Agricultural Engineering Workshop, Chennai.

3.On account of the closure of the workshop in Chennai, the petitioner was transferred and posted at Tractor Workshop, Vellore and he was issued with a proceedings dated 10.06.2006 by the second

respondent stating that he is not eligible for 5% personal pay which was granted to him with effect from 09.07.1999 and sought to recover the same from the salary. According to the second respondent, an excess payment of Rs.1,27,702/- has been made and it shall be recovered in 90 monthly instalments and the first instalment would be at the rate of Rs.877/- per month and the remaining instalments at Rs.1,424/- per month.

4.The petitioner made a challenge to the said proceedings by filing W.P.No.1811 of 2010, so also one Mr.S.Kumar filed W.P.No.1837 of 2010. This Court, vide common order dated 08.02.2011, has set aside the orders and remanded the matter to the Chief Engineer, Agricultural Engineering Department, Chennai, for fresh consideration and having taken note of the fact that the petitioners are having the benefit of stay till the pendency of the writ petitions, the learned Judge also directed that there shall not be any deduction in the scale of pay.

5.The second respondent, vide proceedings dated 30.06.2014, has permitted the petitioner to go on superannuation with effect from 30.06.2014 afternoon, subject to the result of W.P.No.18311 of 2010 and also made an observation that if recovery order is sustained, it will be recovered from the terminal benefits/pension.

6.Mr.K.M.Ramesh, learned counsel appearing for the petitioner would submit that the said order of the second respondent dated 30.06.2014 would exhibit non-application of mind for the reason that W.P.No.1811 of 2010 has been disposed of as early as 08.02.2011 with a direction to the first respondent to consider the matter afresh. It is also the submission of the learned counsel for the petitioner that one Mr.R.Gnanasekaran, who is also similarly placed, has filed W.P. (MD) No.1223 of 2012 and the Madurai Bench of this Court vide order dated 15.04.2015, has set aside the order and upheld the claim of the petitioner therein and the similar benefit may be afforded to the petitioner herein also.

7.The Court heard the submissions of Mr.S.Gunasekaran, learned Government Advocate, who accepts notice on behalf of the respondents.

8.A perusal of the materials placed before the Court would disclose that the petitioner, in this regard, has submitted a representation dated 10.06.2015 to the first respondent praying for appropriate relief and this Court, in the light of the facts and circumstances, is of the view that it would be suffice to direct the first respondent to consider and dispose of the said representation on merits and in accordance with law, after taking note of the above cited order passed by the Madurai Bench of this Court.

9.In the result, the writ petition is disposed of and the first respondent is directed to consider and dispose of the petitioner's representation dated 10.06.2015, on merits and in accordance with

law, after taking note of the order dated 15.04.2015 made in W.P. (MD) No.1223 of 2012 and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

mmi

To

1.The Chief Engineer,
Agricultural Engineering Department,
Anna Salai, Nandanam,
Chennai-600 035.

2.The Assistant Executive Engineer,
Government Tractor Workshop,
Vellore-632 002.

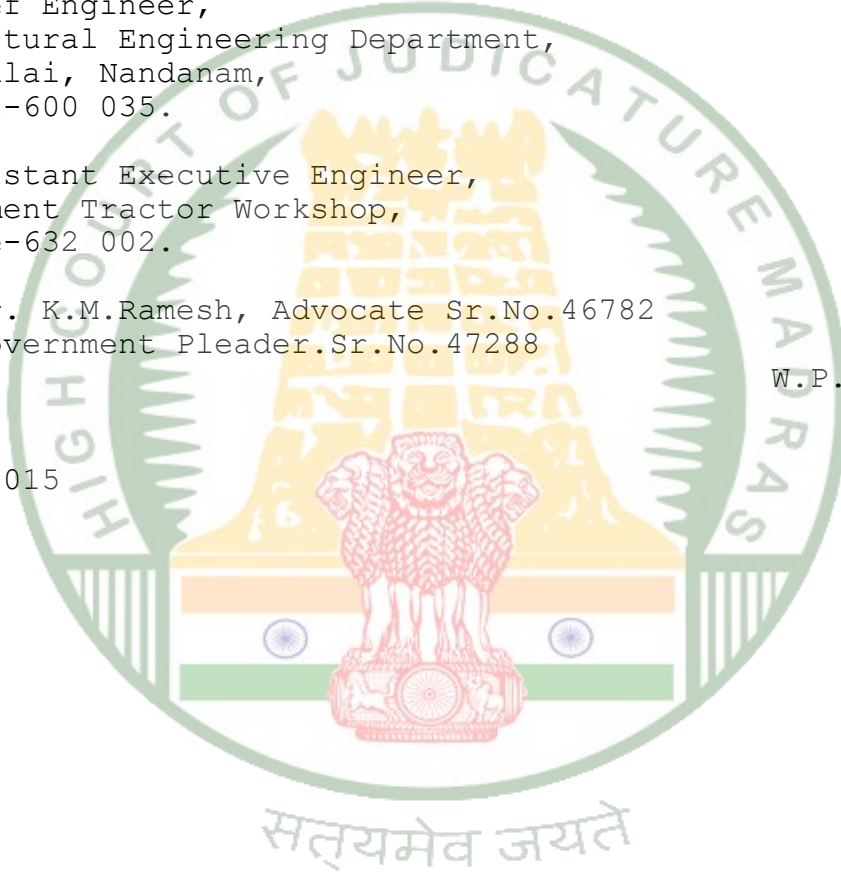
1 cc to Mr. K.M.Ramesh, Advocate Sr.No.46782

1 cc to Government Pleader.Sr.No.47288

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