

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 12.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.32381/2015 & MP.No.1/2015

P.Janarthanan

..Petitioner

Versus

- 1.The Principal Secretary to Government
State of Tamilnadu, Health & Family
Welfare Department, Secretariat,
Fort St George, Chennai 600 009.
 - 2.The Director of Medical Education
Kilpauk, Chennai 600 010.
 - 3.The Dean
Madras Medical College, Chennai 600 003.
- ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus calling for the records relating to the proceedings issued by the 3rd respondent in Proc.No.16498/E2[1]2015 dated 01.10.2015 and to quash the same and consequently direct the respondents to continue to make the payment of annual increment for acquiring Master of Librarian and Information Science [MLIS] acquired by the petitioner.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.R.Vijayakumar, AGP

ORDER

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

2 The petitioner was initially appointed as Lab Technician Grade II and got promotion as Librarian Grade-I in the year 2007 and the said post is attached to the Medical College which comes under the Directorate of Medical Education. While in service, the petitioner claims to have acquired higher qualification of Master of Library and Information Science [MLIS] in the year 2003. The petitioner would further state that the Personnel and Administrative Reforms Department of the Government of Tamil Nadu has issued G.O.Ms.No.1159 dated 21.11.1984, granting advance increments

for Government servants who had acquired higher qualification and one more Government Order was also passed by the very same department in G.O.Ms.No.97 dated 05.07.2010 by restoring the sanctioning of the advance increments for acquiring higher educational qualification instead of one lump sum grant. The petitioner was also sanctioned with annual increments from 05.07.2010 for having secured Post Graduate qualification on MLIS and all of a sudden, without any notice whatsoever, the 3rd respondent, vide impugned proceedings dated 01.10.2015, has directed the petitioner to pay back annual increment paid from 05.07.2010 in one lump sum and challenging the legality of the said order, the petitioner came forward to file this writ petition.

3 Learned counsel for the petitioner would submit that in the light of G.O.Ms.No.97, P&AR Department, dated 05.07.2010 as well as G.O.Ms.No.1159 of the same department, dated 21.11.1984, the case of the petitioner has been considered and was conferred with the benefit of the advance increments and without putting the petitioner on notice and without affording any opportunity whatsoever, the impugned order of recovery came to be passed and hence, prays for appropriate orders.

4 This Court heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader who accepts notice on behalf of the respondents.

5 A perusal of the impugned order would disclose that the order of recovery came to be passed without issuing any notice and affording any opportunity, whatsoever, to the petitioner and the impugned order visits the petitioner with grave civil consequences and in all fairness, the 3rd respondent, before effecting the order of recovery, ought to have put the petitioner on notice and after obtaining his explanation, should have passed the orders in accordance with law ; but however, the said official has failed to do so. Therefore, on the sole ground, the impugned order warrants interference and it is to be remanded to the 3rd respondent for fresh consideration.

6 In the result, the writ petition is partly allowed and the impugned order passed by the 3rd respondent in Proc.No.16498/E2[1]2015 dated 01.10.2015 is hereby set aside and the 3rd respondent is directed to issue show cause notice to the petitioner as to the reasons for ordering recovery within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the petitioner is directed to submit his explanation within a period of four weeks thereafter and the 3rd respondent, on receipt of such

explanation from the petitioner, is directed to consider the same on merits and in accordance with law and pass orders within a further period of six weeks thereafter and communicate the decision taken to the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

sd/
ASSISTANT REGISTRAR (CS-IV)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

AP

To

- 1.The Principal Secretary to Government
State of Tamilnadu, Health & Family
Welfare Department, Secretariat,
Fort St George, Chennai 600 009.
 - 2.The Director of Medical Education
Kilpauk, Chennai 600 010.
 - 3.The Dean
Madras Medical College, Chennai 600 003.
- +1cc to Mr.G.Sankaran, Advocate Sr.56447 [4/11/2015]

W.P.No.32381/2015

CO-NM
JD 27/10/2015

सत्यमेव जयते

WEB COPY