

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

WP.No.34685 of 2015
& MP.No.1 of 2015

L.Kalaimani Ulagammal

... Petitioner

Versus

1. The Principal Secretary to Government
Government of Tamilnadu,
Health & Family Welfare Department
Secretariat, Fort St Goerge, Chennai-9.
2. The Director of Medical Education,
Kilpauk, Chennai-10.
3. The Dean [EAC]
Chengalpattu Medical College
Chengalpattu.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records relating to the impugned order of the 3rd respondent in Ref.No.10765/E1/2015 dated 08.10.2015 and quash the same.

For Petitioner : Mr.K.S.Ilangovan
for M/s.Achari & Antoni

For Respondents : Mr.V.Subbiah,
Special Government Pleader

ORDER

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

2. The 2nd respondent has passed the impugned order based on the clarification issued by the Government and as per the clarification, the Director of Medical Education, was directed to stop the grant of two advance increments to the Librarians who possess M.LIS qualification on the ground that excess payment has been made in the form of advance increments. As a consequence, the two advance increments sanctioned to the petitioner who was formerly a Librarian and retired from service on 31.07.2013 is sought to be recovered and challenging the legality of the said order, the petitioner came forward to file this writ petition.

3. Learned counsel appearing for the petitioner would submit that admittedly the petitioner was not put on notice before ordering recovery and therefore, the impugned order is per se unsustainable and prays for quashment of the impugned order.

4. This Court heard the submissions of Mr.V.Subbiah, learned Special Government Pleader who accepts notice on behalf of the respondents and who would submit that in the light of the clarification issued by the Government, the impugned order has been passed.

5. This Court carefully considered the rival submissions made on either side and also perused the materials placed before it.

6. As rightly contended by the learned counsel for the petitioner, before passing the order of recovery, the petitioner has not been put on notice and hence, on the sole ground, it warrants interference.

7. In the light of the above facts and circumstances, the impugned proceedings of the 3rd respondent, shall be treated as show cause notice, the petitioner is directed to submit his explanation to the respondents 2 and 3 within a period of two weeks from the date of receipt of a copy of this order and the 3rd respondent, on receipt of the said explanation, is directed

to consider the said explanation / representation on merits and in accordance with law and pass order within a further period of four weeks thereafter and communicate the decision taken, to the petitioner and till then, defer all further proceedings pursuant to the impugned order dated 08.10.2015.

8. The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

AP

TO

1. The Principal Secretary to Government
Government of Tamilnadu,
Health & Family Welfare Department
Secretariat, Fort St Goerge, Chennai-9.
2. The Director of Medical Education,
Kilpauk, Chennai-10.
3. The Dean [FAC]
Chengalpattu Medical College
Chengalpattu.

+1cc to M/s.Achari & Antoni, Advocate, S.R.No.59805
+1cc to the Government Pleader, S.R.No.60045

WP.No.34685 of 2015

SKV(CO)
CA(20/11/2015)

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