



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

and

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Appeal (MD) No.873 of 2015 and
MP (MD) No.1/2015

P.Nallasivan

... Appellant/Petitioner

Vs.

1.The Government of Tamil Nadu

Rep by its Secretary,
Hindu Religious & Charitable Endowment Dept.,
Fort St., George,
Chennai 600 009.

2.The Commissioner,

HR & CE Department,
119, Uthamer Gandhi Salai,
Nungambakkam,
Chennai 600 034.

3.The Joint Commissioner,

HR & CE Department,
Thiruvananthapuram Road,
Palayamkottai,
Tirunelveli 2.

4.The Executive Officer,

Arulmighu Thirukutralanathar Swamy Thirukoil,
Courtalam,
Tenkasi Taluk,
Tirunelveli District.

... Respondents

Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 04.06.2015 made in W.P.(MD)No.12459 of 2014.

WP(MD)No.12459/14:- Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records culminating in the order dated 15.5.2014 made in Na.Ka.NO.228/2014/A 2 of the 4th respondent and quash the same and consequently settle the balance of Rs.1,94,101/- (Rupees One Lakh Ninety Fourt Thousand One Hundred & One Only) as per the memo of calculations imcorporated to the notice dated 15.4.2014.

For Appellant : Mr.S.Saji Bino

For Respondents 1-3 : Mr.B.Pugalendhi,
Special Government Pleader.

For 4th Respondent : Mr.S.Manohar

JUDGMENT

(Judgment of the Court was delivered by R.SUDHAKAR,J)

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The writ appeal is directed against the order of the learned single Judge, dated 04.06.2015 in W.P.(MD)No.12459 of 2014.

2.According to the appellant, he is a retired clerk of Arulmigu Thirukutrallanathar Swamy Thirukoil, Courtrallam. At the time of his retirement, all the retirement benefits have been extended to. However, he made a request for revision of his pay scale as per the 6th Pay Commission which was also granted. But while disbursing the amount, a sum of Rs.94,280/- has been withheld on account of audit objection besides that a sum of Rs.64,724/- was withheld under two different heads namely, arrears of house rent and excess salary paid for three months as interim relief. Aggrieved over the same, the appellant has filed W.P(MD)No.12459 of 2014.

3.While dismissing the said writ petition, the learned single Judge of this Court, at paragraph 6, has observed as follows:

"6.Taking note of the above submissions and in view of the fact that orders have been passed in terms of the provisions of the H.R. & C.E. Act and that there is a dispute with regard to payment of the balance amount, this Court is not inclined to grant the relief sought by the petitioner. Accordingly, this Writ Petition is dismissed with liberty to the petitioner to work out his remedy before the appropriate forum in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed".

4.Challenging the said order made in W.P(MD)No.12459 of 2014, the present writ appeal has been filed.

5.We are not inclined to admit the writ appeal by looking into the nature of the claim of the appellant. However, learned counsel appearing for the appellant fairly submits that the payment towards arrears of house rent and three months excess salary paid as interim relief is justified and therefore, he is not making any claim on that. But the main grievance of the appellant appears to be that a sum of Rs.94,280/- retained on account of audit objection was not the subject matter of any proceedings at the time of his retirement.

6.On this issue, it was clarified by Mr.S.Manohar, learned counsel for the Executive Officer, the fourth respondent herein that when the appellant was allowed to retire, there was no proceedings pending as such. He would further submit that the Department is ready to pay the amount of Rs.94,280/- after retaining Rs.64,724/- payable towards arrears of house rent and excess salary paid for three months as set out in the impugned order.



7. Recording the said statement, the writ appeal is disposed of directing the fourth respondent to pay a sum of Rs.94,280/- to the appellant, as expeditiously as possible, preferably, within a period of two weeks from the date of receipt of a copy of this judgment. Insofar as the claim for arrears of salary as stated in the impugned order is concerned, the appellant is at liberty to pursue the matter before the Department in accordance with law. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1.The Secretary to the Government of Tamil Nadu,
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Courtalam,
Tenkasi Taluk,
Tirunelveli District.

+One cc to Mr.S.Manohar, Advocate, SR.No.47050

+One cc to M/s.S.Saji Bino, Advocate, SR.No.46946

sms

RL/7 c- 26/8/2015