

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Writ Appeal No.1143 of 2016
and C.M.P.No.14757 of 2016

- 1.The Director
Rural Development and
Panchayat Raj
Panagal Building, Chennai-15
- 2.The District Collector
Villupuram District
- 3.The Block Development Officer
Kallakurichi Panchayat Union
Kallakurichi Taluk
Villupuram District-606 201 ..Appellants /
Respondents in WP.9633/12

Vs

C.Periasamy ..Respondent/
Petitioner in -do-

Prayer : Writ Appeal filed against the order dated
25.03.2015 passed in W.P.No.9633 of 2012.

Writ petition filed u/a.226 of the Constitution of India
praying for issue of writ of certiorarified mandamus calling for
the records made in the impugned order made in Na.Ka.No.
A1/3455/2007 dated 7.7.2010 on the file of the 3rd respondent
and quash the same and direct the respondents to sanction
retirement benefits and pension to the petitioner in the special
grade pay for the post of Junior Assistant.

For Appellants :: Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader

For Respondent :: Mr.S.N.Ravichandran

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

Heard the learned counsel for the respective parties.

2. The Writ Petitioner-C.Periasamy, who was appointed as Office Assistant in 1972, was promoted as Junior Assistant, and was given Selection Grade and Special Grade pay in the post of Junior Assistant and on attaining the age of superannuation, he retired on 31.07.2005. Taking note of the audit objection, the third appellant passed the impugned order directing recovery of a sum of Rs.90,847/-.

3. The said order of recovery has been issued by the third respondent on the ground that the writ petitioner had failed to clear the departmental examination and as such, he was not eligible for selection grade and special grade pay.

4. We have perused the order of the learned Single Judge passed in W.P.No.9633 of 2012 dated 25.03.2015. The learned Single Judge pointed out that the petitioner was not responsible for the payment of pay equivalent to Selection Grade and Special Grade; the third respondent, knowing fully well that the petitioner has not cleared the departmental test, granted him selection grade and special grade pay. The learned Single Judge also held that third respondent was not correct in passing the impugned order after retirement, directing recovery, solely on account of the objection raised by the audit wing.

5. Rightly or wrongly, the appellants, granted the benefits and pay of selection grade and special grade and the same was also enjoyed by the writ petitioner/respondent herein, however, passed the order of recovery at belated stage, after realising the fact that the writ petitioner has not passed the department examination, but, knowing fully well that the petitioner worked in the post of Junior Assistant for about 20 years without passing departmental test and his case was recommended to the Government by the second appellant for exemption.

6. Only on the technical ground, the recovery order has been passed and the same is impermissible. Hence, the learned Single Judge, has rightly set aside the same. We find no merit in the present Writ Appeal to interfere with the order of the learned Single Judge. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, connected CMP is closed.

7. It is stated by the learned counsel for the respondent that DCRG amounts due to the respondent has not been settled. Hence, it is for the appellants to settle the DCRG amount due to the respondent.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

- 1.The Director
Rural Development and
Panchayat Raj, Panagal Building, Chennai-15
- 2.The District Collector, Villupuram District
- 3.The Block Development Officer
Kallakurichi Panchayat Union
Kallakurichi Taluk
Villupuram District-606 201

+1 cc to Govt.Pleader,sr.60999

+1 cc to M/s.S.N.Ravichandran,advocate,sr.60796

ss(co)
krd 27/12

W.A.No.1143 of 2016

सत्यमेव जयते

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