

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2017

CORAM :

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.Nos.13626 to 13629 of 2012
and M.P.Nos.1,1,1 and 1 of 2012
and M.P.Nos.1 and 1 of 2014

1.Mrs.S.Hidhayathun Nooria,
W/o.M.Chinna Syed Lebbai.

.. Petitioner in W.P.Nos.13626
& 13627 of 2012

2.Mrs.G.Barathi,
W/o.M.Anbu Murugan.

..Petitioner in W.P.Nos.13628
& 13629 of 2012

Vs.

1. The Director,
Institute of Mental Health,
Kilpauk, Chennai - 10

2. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai - 10.

... Respondents

Prayer in WP No.13626 of 2012 : Writ petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari or any other appropriate Writ or order direction inthe nature of Writ to call for the records of the first respondent's order in K.Dis.No.6018/E2/2012 dated 27.04.2012 and to quash the said order.

Prayer in WP No.13627 of 2012 : Writ petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari or any other appropriate Writ or order direction inthe nature of Writ to call for the records of the first respondent's order in K.Dis.No.6018/E2/2012 dated 08.05.2012 and to quash the

said order.

Prayer in WP No.13628 of 2012 : Writ petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari or any other appropriate Writ or order direction in the nature of Writ to call for the records of the first respondent's order in K.Dis.No.6018/E2/2012 dated 27.04.2012 and to quash the said order.

Prayer in WP No.13629 of 2012 : Writ petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari or any other appropriate Writ or order direction in the nature of Writ to call for the records of the first respondent's order in K.Dis.No.6018/E2/2012 dated 08.05.2012 and to quash the said order.

For Petitioners	: Mr.R.Thirugnanam,
For Respondents (In all W.Ps')	: Mr.R.Vijayakumar Additional Government Pleader

COMMON ORDER

Mr.Thirugnanam, learned counsel is present on behalf of the writ petitioners in all the four writ petitions. Mr.R.Vijayakumar, learned Additional Government Pleader is present on behalf of the respondents in all the four writ petitions.

2. The facts are common.

3. The writ petitions are four, writ petitioners are two in number.

4. The two writ petitioners were appointed as Social workers in the Institute of Mental Health, Kilpauk, Chennai - 600 010, vide appointment orders dated 22.07.2010 and 31.08.2010 respectively. In the appointment orders, their scales of pay has also been clearly set out.

5. It is the say of the respondents that they subsequently realized that the scale of pay indicated in the appointment orders is incorrect. Therefore, they issued an erratum to the appointment orders. This erratum is dated 27.04.2012 and bears reference K.Dis.No.6018/E2/2012. In and by the erratum, it was stated that this scale of pay shall now read as Rs.5200-20200 GP 2400-Instead of Rs.9300-34800 GP-4500.

6. Subsequent to above said erratum, the first respondent, the Director of Institute of Mental Health, Kilpauk, Chennai - 10, passed an order dated 08.05.2012 bearing reference No.6018/E2/2012, in and by which, the first respondent ordered recovery of the excess amount that is said to have been paid to the writ petitioners under the scales of pay prior to the erratum.

7. Aggrieved, the writ petitioners have filed two independent writ petitions (each) assailing the above said erratum order dated 27.04.2012 as well as the recovery order dated 08.05.2012.

8. As these writ petitions can be disposed of on a short point, I refrain from an elaborate discussion about the re-fixing of the scale of pay.

9. The short point is that the writ petitioners were not put on notice before the order of erratum or before the order of recovery.

10. It is also not in dispute before me that an order of recovery in cases of this nature can not be passed without giving an opportunity to the employees. This position of law is fairly well settled and therefore, it is not in dispute before me.

11. This Court is, therefore, inclined to set aside both the impugned orders viz., the order of erratum as well as the recovery order on the short point that the concerned employees were not put on notice before the orders were passed.

12. The following order is passed:

(i) The respondent shall put the employees on notice and grant them an opportunity to put forth their cases and thereafter pass suitable orders qua the erratum and the recovery order.

(ii) The above exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

13. These writ petitions are disposed of accordingly. No costs.

14. Consequently, connected miscellaneous petitions are closed.

13.03.2017

vsm

Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order

To

1. The Director,
Institute of Mental Health,
Kilpauk, Chennai - 10
2. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai - 10.

M.SUNDAR. J

vsm

W.P.Nos.13626 to 13629 of 2012

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