

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2017

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.6380 of 2014
and
MP.Nos.1 and 2 of 2014

1.K.Kaliaperumal (Deceased)
2.K.Kodiarasi
3.K.Vinod Kumar
4.K.Raja

(P2 to P4 are substituted as LRS of deceased
P1 Mr.K.Kaliyaperumal (Deceased) as per order dated
26.9.2016 in W.M.P.No.24508/2016 in
W.P.No.6380 of 2014) ...

Petitioners

Vs

1. Agriculture Production Commissioner
and Secretary to Government,
Agricultural Department,
Chief Secretariat,
St.George Fort,
Chennai - 600 009.

2. The Chief Engineer,
Agricultural Engineering Department,
No.487, Anna Salai,
Nandanam, Chennai - 600 035.

3. The Assistant Executive Engineer,
Agricultural Engineering Department,
Tractor Work Shop,
NO.14, V.O.C Road,
Trichy -1.

4. The Executive Engineer,
Administrative Officer,
Tamil Nadu Housing Board,
Kajamalai Colony,
Trichy - 620 020.

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5. The Chairman,
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam, Chennai - 600 035.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the 3rd respondent to pay gratuity payable to the petitioner as per the gratuity payment order dated 29.4.2008 of the Accountant General (A & E) of Tamil Nadu together with interest.

For Petitioner : Mr.K.Muthuramalingam
For Respondents: Mr.R.Vijayakumar
Additional Government Pleader
for R1 to R4
Mr.V.Anandhamurthy, R5

O R D E R

The relief sought for in this writ petition is for a direction to the third respondent to pay gratuity payable to the petitioner as per the gratuity payment order dated 29.4.2008 of the Accountant General (A & E) of Tamil Nadu.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was employed as Store Keeper Grade -I in the office of the third respondent and retired from service on 31.12.2007. The writ petitioner was allowed to retire from service and his pension proposals were submitted in accordance with the Tamil Nadu Pension Rules. The Accountant General (A & E) Tamil Nadu, Chennai also sanctioned DCRG to the writ petitioner in proceedings dated 29.4.2008. In spite of the sanctioning of the DCRG by the Accountant General of Tamil Nadu the respondents are not settling the same.

3.The learned Additional Government Pleader appearing for the respondents 1 to 4, made a submission that no doubt the DCRG amount has not been settled to the writ petitioner. In view of the fact that he has over stayed in the Government accommodation in the Housing Board and the rental arrears are due and the same is to be calculated and settled only after obtaining a no due certificate from the Tamil Nadu Housing Board Officials. The amount of the DCRG therefore cannot be settled in accordance with the Government orders. In other words the learned Additional Government Pleader is of the opinion that the writ petitioner has to get a no due certificate from the Housing Board and thereafter claim the amount of the DCRG which was

sanctioned by the Accountant General (A & E) Tamil Nadu, Chennai in proceedings dated 29.4.2008.

4. Mr.R.Mahesh, Assistant Executive Engineer, Agricultural Engineering Department, Government Tractor Work Shop, Tiruchirappalli, is personally present before this Court and informed that the amount has not been settled on account of non production of no due certificate from the Housing Board authorities.

5. In the case on hand, the writ petitioner, who was an employee of the respondent department passed away in the year 2015 and now the legal heirs of the original writ petitioner have been impleaded as party in this writ petition by virtue of an order passed by this Court on 26.9.2016. In respect of the Housing Board dues, it is an independent claim that has to be settled by the deceased employee. In the case on hand admittedly there are certain disputes between the Housing Board and the deceased employee in respect of claiming rent and penal rent for the quarters occupied by the writ petitioner before his retirement. The complaint set out by the respondents are that the writ petitioner had overstayed in the Government quarters even after his transfer to some other place. However, such overstaying took place ten years before and the learned counsel for the writ petitioner made a submission that the claim is belated after a lapse of more than a decade and therefore on that ground the DCRG amount cannot be retained.

6. This Court is of the opinion that the claim of the Housing Board is for the year 1998 - 1999 and the claim of the Housing Board itself is belated and it is for the Housing Board to initiate appropriate action in this regard under the Rules in force.

7. In respect of the DCRG, it is the service benefit of the original writ petitioner who is no more and now the legal heirs of the deceased employee are impleaded in this writ petition and this Court cannot ask the legal heirs to run pillar to post for the purpose of getting the terminal benefits of the deceased employee.

8. Under these circumstances in respect of the claim of the Housing Board, it is left open to the authorities to initiate action for recovery in accordance with law. However, in respect of the DCRG amounts, the respondents are bound to pay it in accordance with the order passed by the Accountant General, Tamil Nadu, Chennai in proceedings dated 29.4.2008 along with the interest as applicable under the Government orders.

9. In this view of the matter, the respondents are directed to settle the DCRG amount to the writ petitioners as per the

sanctioning order of the Accountant General, Tamil Nadu, Chennai, in proceedings dated 29.4.2008 and disburse the entire amount of Gratuity along with the interest as applicable as per the Rules and pay the same within a period of twelve weeks from the date of receipt of a copy of this order.

10. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

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To

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and Secretary to Government,
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Nandanam, Chennai - 600 035.

6. The Accountant General
Tamil Nadu, Chennai.

+1 CC to Mr.K. Muthuramalingam, advocate sr 80067.
+1 Cc to The Govt. Pleader sr 80987.

W.P.No.6380 of 2014

SP(05/12/2017)



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