

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.7.2017

CORAM

**THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE G.JAYACHANDRAN**

**W.P.No.1530 of 2017
and
W.M.P.No.1438 of 2017**

Shibi T.Manjooran

Petitioner

Versus

- 1 Union of India
rep. by the Deputy Controller and Auditor
General of India
O/o. Controller and Auditor General of India
No.9 Deen Dayal Ubadyay Marg
New Delhi 110 124
- 2 The Principal Accountant
General (G & SSA)
Tamil Nadu and Pondicherry
Lekha Pariksha Bhavan
361 Anna Salai
Teynampet Chennai-600 118
- 3 Deputy Accountant General/Admn.
O/o. The Principal Accountant General
(G & SSA)
Tamil Nadu and Pondicherry
Lekha Pariksha Bhavan
361 Anna Salai Teynampet
Chennai-600 118
- 4 The Accountant General/Admn.
O/o. The Accountant General (Audit)
Dehradun Uttarakhand

5 The Audit Officer/Claims
O/o. The Principal Accountant
General (G & SSA)
Tamilnadu and Pondicherry
Lekha Pariksha Bhavan
361 Anna Salai Teynampet
Chennai-600 118

6 The Registrar
Central Administrative Tribunal
Chennai 600 104

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution India seeking to issue a writ of certiorari calling the records pertaining to the order of the 6th respondent Tribunal made in OA/310/00131/2014 dated 2.11.2016 received on 16.12.2016 and the order of 2nd respondent made in AG(G & SSA)/PC IV/III/ dated 11.1.2017 in so far as the recovery of Rs.1,15,315/- only from the petitioner and quash the same.

For petitioner : Mr.R.Malaichamy
For R1 to R4 : Mr.V.Vijay Shankar
For R5 : No appearance.

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties for some time.

2. It appears that the petitioner is working as Hindi Officer in the office of the second respondent and she had been sent on deputation to the fourth respondent office at Uttarkhand for some time from January 2009, initially for a period of one year and subsequently, extended from time to time till March 2013. The case of the petitioner is that she had originally sought for deputation on her own volition which was rejected on the ground that there was no vacancy for Hindi Officer, but, at a later point of time, she had been relieved to join the fourth respondent office on deputation and

therefore, she had claimed deputation allowance and got the same. But, subsequently, it seems that the Department had proceeded to recover the deputation allowance on the ground that the deputation is not at the instance of the employer, but, only on the request of the employee, which is under challenge in this writ petition.

3. Having heard the learned counsel appearing for the parties and on perusing the materials placed before us, we are of the view that it is not made out by either of the parties as to whether the deputation was at the instance of the Department or on the request of the employee. Further, it is brought to the notice of the court that already 50% of the amount paid towards deputation allowance has been recovered by the Department.

4. Considering the circumstances of the case viz., dearth of details as to whether the deputation was at the instance the employer or employee, and de hors that in the light of the principle laid down in STATE OF PUNJAB AND OTHERS v. RAFIQ MASIH (WHITEWASHER) ((2014) 8 SCC 883), it is hereby directed that the recovery of the allowance paid to the employee shall be restricted to the amount already recovered and no further amount need be recovered. Accordingly, the writ petitioner is allowed in part. No costs. The connected miscellaneous petition is closed.

(H.G.R.,J.)(G.J.,J.)

7.7.2017.

Internet:Yes/No
ssk.

To:

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**HULUVADI G. RAMESH, J.
AND
G.JAYACHANDRAN, J.**

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