



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **26.07.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **K.K.SASIDHARAN**

AND

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.A.[MD].No.1308 of 2011

and

M.P.(MD)No.2 of 2011

1.The Principle Secretary,
Health and Family Welfare Department,
Fort St.George,
Chennai-600 009.

2.The Chief Accounts Officer,
O/o. The Director of Family Welfare,
No.356, Anna Salai,
Chennai-600 006.

3.The Director of Family Welfare,
DMS Campus,
No.356, Anna Salai,
Chennai-600 006.

4.The Deputy Director,
Medical, Rural Health Services &
Family Welfare,
District Family Welfare Bureau,
Dindigul District.

: Appellants

Vs.

K.Shanmugam

: Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying to set aside the order dated 05.10.2010, passed in W.P.No.1082 of 2010 on the file of this Court.

Prayer in WP(MD). 1082/ 2010 :

WRIT OF CERTIORARI to call for the records relating to the impugned order passed by the 2nd respondent in his proceedings Ne.Mu.Ka.No.5882/KuNa/F2/06, dated 12-09-2009 and the consequential order passed by 3rd respondent in his proceedings in Na.Ka.No.015453/F2/KuNa/03, dated 16-10-2009 and quash the same .

For Appellants

: Mr.T.S.Mohamed Mohaideen
Additional Government Pleader

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondent

: Mr.B.Saravanan



O R D E R

[Order of the Court was made by G.R.SWAMINATHAN, J.]

The Government of Tamilnadu is on appeal, questioning the order dated 05.10.2010 passed in W.P.(MD)No.1082 of 2010.

2. The respondent, herein, was appointed as Urban Family Welfare Extension Educator on 19.01.1971. He was awarded the Selection Grade on 19.01.1981. He was appointed as Mass Education and Information Officer on 15.07.1988 and Selection grade in the said post was given on 19.01.1991. Subsequently, Special Grade was given to him on 19.01.2001.

3. He retired from service on 31.07.2001. Thereafter, the Deputy Director of Medical Rural Health Services and the Director of Family Welfare issued a proceedings, dated 16.06.2006, stating that while auditing, objection has been raised with regard to conferment of selection grade to the Writ Petitioner on 19.01.1991 and that he should remit the excess amount paid towards salary to the tune of Rs.56,995/-. This was questioned by the Writ Petitioner. Finally, the impugned order, dated 12.09.2009 was passed calling upon the Writ Petitioner to pay a sum of Rs.46,444/-, said to have been paid in excess of his entitlement. It is this recovery order that was questioned in W.P.(MD)No.1082 of 2010. The learned Single Judge allowed the same and aggrieved by the said order, this appeal has been filed.

4. It is seen that the Writ Petitioner did not indulge in any misrepresentation leading to excess payment and there was no fault on his part. That apart, the recovery order itself came to be passed, after the Writ Petitioner retired from service. Directing recovery or the same said to have been paid in excess of one's entitlement, would certainly cause undue hardship in the case of a retired employee. Looking from any angle, the order of recovery cannot be sustained. The learned Single Judge rightly allowed the Writ Petition.

5. We find no merit in this appeal. The Writ Appeal stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AE)

/ True Copy /

Sub Assistant Registrar(C.S.)



To.

1.The Principle Secretary,
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4.The Deputy Director,
Medical, Rural Health Services &
Family Welfare,
District Family Welfare Bureau,
Dindigul District.

+1cc to M/S.B.SARAVANAN, Advocate SR.No.68022

+1cc to Special Government Pleader, SR.No.68703

TA/mrn/psd

MAS/KP/SAR1:08.08.2017:3P-7C

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