

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.06.2018
CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
And
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.1156 of 2018
And
C.M.P.No.9252 of 2018

- 1.Secretary to Government,
Health and Family Welfare (AA2) Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 9.
- 2.The Director of Medical Education,
Kilpauk, Chennai - 10. Appellants

Vs.

- 1.Mallika
- 2.The Chairman,
Tamil Nadu Public Service Commission,
Chennai.
- 3.The Principal Accountant General (A&E),
Tamil Nadu, Chennai - 18. Respondents

Prayer:

Writ Appeal filed under Clause 15 of Letters Patent seeking to set aside the order dated 21.07.2015 passed in W.P.No.21694 of 2015.

WP.No.21694/2015:Petition U/Art 226 of the constitution of India praying this Court for the relief of issuance of writ of declaration, declaring that the order passed by the 1st respondent in its letter NO.23967/AA2/2014-2 dated 20.11.2014 directing the rectification and revision of the petitioners pay with effect from 21.5.1995 is unjust irrational and void and consequently direct the respondents to sanction to the petitioner the retirement benefits to the petitioner based upon her last drawn pay.

For Appellants : Mr.C.Munusamy
Special Government Pleader

For Respondents: Mr.N.Subramanian for R1
Mr.M.Loganathan for R2
Mr.P.S.Siva Shanmuga Sundaram for R3
Special Government Pleader

J U D G M E N T

(Order of the Court was made by M.DHANDAPANI,J.)

This intra Court appeal has been filed by the State challenging the order of the learned Single Judge dated 21.07.2015 in W.P.No.21694 of 2015.

2.The first respondent/ writ petitioner filed a writ petition in W.P.No.21694 of 2015 seeking issuance of Writ of Declaration, declaring that the order of the first respondent therein in his letter No.23967/AA2/2014-2 dated 20.11.2014 directing the rectification and revision of the writ petitioner's pay with effect from 21.05.1995, is unjust, irrational and void and to consequently direct the respondents therein to sanction the retirement benefits to the writ petitioner based upon her last drawn pay.

3.However, after elaborate discussions, the learned Single Judge disposed of the writ petition directing the respondents 1, 2 and 4 therein not to make any recovery towards the excess payment made due to selection grade awarded due to mistake to the writ petitioner in the post of Steno-typist with effect from 22.05.1995 and made it clear that the revised pay can be taken into account for the purpose of settlement of all terminal benefits and for pension. Aggrieved by the said order, the respondents 1 and 2 in the writ petition have come forward with this appeal. The respondents 2 and 3 herein are the respondents 3 and 4 in the writ petition.

4.The learned Special Government Pleader appearing for the appellants would submit that it is settled position of law that if any excess payment is made by the Department by mistake to any person, such excess payment can be recovered from the individual, without any declaration. Accordingly, he prayed for allowing the writ appeal.

5.The learned counsel appearing for the first respondent would submit that already the Personnel and Administrative Reforms (Personnel-B) Department vide letter dated 28.11.1990 justified awarding of selection grade in favour of the Steno-typist. Hence, the order passed by the learned Single Judge need not be interfered with.

6.Heard the arguments advanced on either side.

7.This Court without expressing any opinion on the merits of the case, directs the first respondent to place the relevant materials before the concerned Authority. On receipt of the same, the concerned Authority shall consider the same and pass orders, as directed by the learned Single Judge, within a period of four weeks from the date of receipt of a copy of this order.

8.The writ appeal is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is also closed.

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Speak

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

- 1.Secretary to Government,
Health and Family Welfare (AA2) Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 9.
- 2.The Director of Medical Education,
Kilpauk, Chennai - 10.
- 3.The Principal Accountant General (A&E)
Tamilnadu, Chennai 18.
- 4.The Chairman, Tamil Nadu Public Service Commission,
Chennai.

+1cc to M/s.N.Subramaniam, Advocate Sr.No.40108

+1cc to Mr.M.Loganathan, Advocate Sr.No.40145

+2cc to Government Pleader SR.No.40391, 40903

GP(CO)

sm:11.7.2018

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