IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2018
CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.20964 of 2017

Eapan Vettath Eapan ... Petitioner-in-Person

Vs.

1.Deputy Director of Horticulture,
G.C.T.Post,
Coimbatore-13.

2.Director of Horticulture & Plantation Crops,
Chennai-600 005.

3.Deputy Director of Horticulture,
Collectorate Office,
Tiruvannamalai. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 herein to consider the petitioner's representation dated 11.11.2015 for effecting the reimbursement of Rs.10,000/- and also to pay penal interest and such other costs.

For Petitioner : Mr.Eapan Vettath Eapan/Party-in-Person

For Respondents : Mr.V.Jayaprakash Narayanan,
Special Government Pleader for R1 to R3

O R D E R

This Writ Petition has been filed seeking a Writ of Mandamus directing the respondents 1 to 3 herein to consider the petitioner's representation dated 11.11.2015 for effecting reimbursement of Rs.10,000/- and also to pay penal interest and costs.

2. The petitioner-in-person, while serving as Assistant Director of Horticulture in Anaimali under deputation, was sent for training along with one Tmt.Vasanthi to IIVR, Varanasi, from Coimbatore in December, 2013 and he was also paid with Tour Advance, but the Deputy Director of Horticulture, in violation of procedures/rules, ordered recovery of his Travelling

Allowance without even issuing notice asking for explanation as to why the tour advance received by the petitioner should not be recovered. Even before he undertook the tour from Coimbatore to IIVR, Varanasi, the petitioner initially asked for Tour Advance, but the Deputy Director of Horticulture/first respondent failed to respond to his request and finally deposited an amount of Rs.10,000/- in his account, only after he reached Varanasi and underwent the said training. Since the petitioner was provided with Travelling Allowance on the last day of training, he approached the first respondent for returning back the Tour Advance for Travelling Allowance. In reply, the first respondent directed the petitioner to pay it after deducting the claim of the whole month's Travelling Allowance bill which will be adjusted from the amount and balance amount to be paid back to the Treasury Account, as per the Rules.

3. Pursuant to the instructions given by the first respondent, the petitioner remitted a sum of Rs.6,438/- after getting the signature of the Assistant Treasury Officer, Coimbatore on the top of Challan No.0486 dated 27.01.2014 and entrusted the third copy of the challan to the first respondent, which was also accepted by the first respondent without raising any objection. The first respondent, instead of producing the challan in the Annual Audit, purposively concealed the same, resulting in the Audit Group raising objection in Para 1 of the year 2013-2014. In view of the mistake committed by the first respondent, which was done purposively, the petitioner was constrained to pay back the entire amount and as as result, the Audit Group also, while inspecting the records of the first respondent, finding that the first respondent has failed to produce the Challan, has raised an objection as regards shortage of Rs.10,000/-.

4. Based on the Audit Objection, there had been notices issued to the petitioner as well as Tmt.Vasanthi, however, without even issuing any notice asking for explanation from both the petitioner and Tmt.Vasanthi, the first respondent directed the petitioner to repay the said amount. Finally, the second respondent, colluding with the first respondent, effected recovery without going through the facts of the case and overlooking the basic procedure to call for explanation from the petitioner. When the petitioner was sent for training to IIVR, Varanasi from Coimbatore in December, 2013, the petitioner along with Tmt.Vasanthi, attended the training programme at Varasani by spending from their pockets. Even the challan submitted with the seal of State Bank of India Treasury, Coimbatore dated 27.01.2014 also shows that the petitioner has deposited the sum of Rs.6,438/-. Since the first respondent has failed to produce the challan in the Annual Audit, the petitioner was put to harassment, victimization and monetary loss and as such, he has

come to this Court seeking for a direction to the respondents to reimburse the amount of Rs.10,000/- with penal interest and costs.

5. Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the respondents, inviting the attention of this Court to the detailed counter affidavit filed by the first respondent, has submitted that though the petitioner was sent for training to IIVR, Varanasi from Coimbatore in December, 2013, as per Rule 110(D) of the Travelling Allowance Rules, the tour advance bill should be adjusted by submitting the travelling allowance bill for the month within 90 days from the last date of tour. Since the travelling allowance bill was not produced, audit party raised objection in para 1 and the details of para 1 of audit objection for the year 2013-2014 has been communicated to the petitioner, vide proceedings dated 18.08.2015, through the Deputy Director of Horticulture, Thiruvannamalai. In the meanwhile, an appeal was also filed by the petitioner, however the Deputy Director has not considered the same on account of violation of Rule 110(D) of the Travelling Allowance Rules and effected recovery.

6. This Court is unable to accept the stand taken by the first respondent in the counter affidavit. Para 5 of the counter affidavit clearly admits the case of the petitioner that he has remitted the sum of Rs.6,438/- directly to the District Treasury, Coimbatore, without getting any instructions from the first respondent. When it is an admitted case that both the petitioner and Tmt.Vasanthi were sent for training toVaranasi in December, 2013, they are entitled to be paid with Tour Advance for Travelling Allowance.

7. However, in the case on hand, the first respondent, having seen the remittance challan for a sum of Rs.6,438/-, bearing signature of the Assistant Treasury Office, Coimbatore in Challan No.0486 dated 27.01.2014 and entrusted with the third copy of the challan, should have produced the challan in the Annual Audit, which has not been done, leading to the confusion.

8. Furthermore, the petitioner has also filed an appeal against the order of recovery, as admitted in para 6 of the counter affidavit. It is not known why the petitioner's appeal has not been considered on the ground that the petitioner has committed violation of Section 110(D) of Travelling Allowance Rules. When the petitioner, aggrieved by the order of recovery, preferred the appeal through the Deputy Director of Horticulture, Tiruvannamalai, in all fairness, it is the bounden duty of the respondents to consider the appeal, which has also not been admittedly done.

9. Prima facie it appears that the contention made by the petitioner that the respondents have deliberately victimized him, stands proved.

10. In the result, this Writ Petition is allowed and the respondents are directed to reimburse/refund a sum of Rs.10,000/- (Rupees Ten Thousand Only) along with cost of Rs.10,000/- (Rupees Ten Thousand Only) to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

jvm

To

1.Deputy Director of Horticulture,
G.C.T.Post, Coimbatore-13.

2.Director of Horticulture & Plantation Crops,
Chennai-600 005.

3.Deputy Director of Horticulture,
Collectorate Office,
Tiruvannamalai.

+1cc to Mr.Eapan Vettath Eapan,party in person, S.R.No.9671

W.P.No.20964 of 2017

KAN(CO)
RRK(16/02/2018)