

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.07.2018

CORAM

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

W.P.No.13235 of 2015

and

M.P.No.1 of 2015

K.Kamala

..Petitioner

vs

1.The Principal Secretary,
Health Department, Secretariate,
Fort St.George, Chennai-600 009.

2.The Joint Director,
Family Welfare,
Tirupur.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the impugned order of recovery in Na.Ka.No.2089/Ku.Na/K7/2014-8 dated 23.03.2015 of the 2nd respondent and quash the same.

For Petitioner :Mr.K.A.Mariappan

For Respondents:Mr.A.Srijayanthi
Special Government Pleader for R1 & R2

O R D E R

The relief sought for in this writ petition is to quash the order of recovery issued by the 2nd respondent in proceedings dated 23.03.2015.

2. The learned counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner is working as Health Visitor and based on the audit objection, the respondents issued an impugned order of recovery directing the writ petitioner to deposit the amount of Rs.1,76,400/- in lump sum.

3. The learned counsel appearing for the petitioner made a submission that the impugned order of recovery has been passed without issuing any show cause notice and affording opportunity

to the writ petitioner. Thus, the order impugned is in violation of principles of natural justice.

4. This Court is of an opinion that any order affecting the service condition or affecting the monetary benefits of the employee, has to be issued only after issuing show cause notice and by providing reasonable opportunity to the employees concerned. However, in the present writ petition, the respondents have not complied with the principles of natural justice. Thus, it is a fit case for remittance. Accordingly, the impugned order passed by the 2nd respondent in proceedings in Na.Ka.No.2089/Ku.Na/K7/2014-8 dated 23.03.2015 is quashed. The respondents are directed to issue show cause notice to the writ petitioner within a period of two weeks from the date of receipt of copy of this order. On receipt of the show cause notice, the writ petitioner is directed to submit his explanation / objection on the show cause notice to be issued within a period of two weeks and thereafter and the respondents are at liberty to pass final orders based on the materials available on merits and in accordance with law within a period of four weeks thereafter.

5. Accordingly, the writ petition stands allowed, with the above direction. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

sk

To

1.The Principal Secretary,
Health Department, Secretariate,
Fort St.George, Chennai-600 009.

2.The Joint Director,
Family Welfare, Tirupur.

+ 1 cc to Mr.K.A. Mariappan, Advocate Sr.49848

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(CO-MR)
EU(28/08/2018)