

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.45803 of 2006

and

W.M.P.No.1 of 2006

S.Selvadurai

...Petitioner

Vs.

1. The Chairman,
National Council for Co-operative Training,
Jawaharlal Nehru National Co-operative Complex,
3rd Floor, No.3, Siri Institutional Area,
August Kranti Marg, Hauz Khas, Post Bag No.2,
New Delhi-110 016.
2. The Director General,
National Council for Cooperative Training,
Jawaharlal Nehru National Co-operative Complex,
3rd Floor, No.3, Siri Institutional Area,
August Kranti Marg, Hauz Khas, Post Bag No.2,
New Delhi-110 016.
3. The Secretary,
National Council for for Cooperative Training,
Jawaharlal Nehru National Co-operative Complex,
3rd Floor, No.3, Siri Institutional Area,
August Kranti Marg, Hauz Khas, Post Bag No.2,
New Delhi-110 016.
4. The Senior Accounts Officer,
National Council for Co-operative Training,
Jawaharlal Nehru National Co-operative Complex,
3rd Floor, No.3, Siri Institutional Area,
August Kranti Marg, Hauz Khas, Post Bag No.2,
New Delhi-110 016.
5. The Chairman,
Institute of Co-operative Management,
Por Bag No.8, Rajendra Nagar,
Hyderabad-560 039,
Andra Pradesh.

6. The Principal,
Natesan Institute of Co-operative Management,
No.2377-A, 4th Avenue,
Anna Nagar,
Chennai-600 040.

...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondent to refund the sum of Rs.1,13,436/- which was recovered from the gratuity amounting to a sum of Rs.2,56,725/- under various heads like market rent, inadmissible HRA, Travel Allowance Bills and medical bills and also pay interest at the rate 12% in the gratuity amount of Rs.2,56,725/- from the date of retirement of the petitioner i.e.28.02.2003 till date.

For Petitioner : Mr.Selvadurai
Party in person

For Respondents : Mr.K.S.V.Prasad
for R1 to R6

O R D E R

The petitioner has filed this writ petition seeking mandamus to refund the sum of Rs.1,13,436/- which was recovered from the gratuity amounting to a sum of Rs.2,56,725/- under various heads like market rent, inadmissible HRA, Travel Allowance Bills and medical bills and also to pay interest at the rate of 12% in the gratuity amount from the date of retirement of the petitioner i.e. 28.02.2003 till date.

2.The petitioner was employed under the Institute of Co-operative Management, Madurai as Principal at the time of retirement. While, he was serving under the respondents, there was some misappropriation of Rs.1,13,436/-. The said amount was withheld by the third respondent. Aggrieved by the same, the present writ petition has been filed to refund the amount.

3.The petitioner retired from the services on 28.02.2003, when he was working as a principal under the Co-operative Management, Madurai. The petitioner was permitted to retire from the services by withholding his gratuity amount.

4.The learned counsel appearing for the respondents would submit that the petitioner misappropriated the amount ***"and though the Petitioner was retired on 28.02.2003 the gratuity was sanctioned on 02.02.2005, after giving him reasonable opportunity and considering all his objections to the deductions. Thereafter, the petitioner filed the Writ Petition**

belatedly without challenging the order dated 02.02.2005 filing the Writ Petition is not Maintainable".

5. On a perusal of the impugned order, it is seen that the writ petition filed by the petitioner is not maintainable. The records show that the petitioner was retired from the services as principal and he was entitled for the payment of all his retirement benefits. As there was also an allegation of misappropriation of Rs.1,34,436/-, the petitioner's gratuity amount had been withheld by the third respondent on 02.02.2005. However, the petitioner has not challenged the said impugned order and has challenged the same before this Court for mandamus seeking refund of the amount withheld by them. The impugned order was passed behind the back of the petitioner and the opportunity was not given to the petitioner before passing of the impugned order, which is non-est in law.

6. Accordingly, the order passed by the third respondent is hereby set aside. The matter is remitted back to the third respondent for fresh adjudication.

7. In view of the above, this writ petition is disposed of with a direction to the third respondent to issue notice to the petitioner within one week from the date of receipt of a copy of this order and the petitioner shall file his written statement within two weeks. Thereafter, the third respondent shall pass fresh order within four weeks. If the petitioner is not found guilty before the third respondent, the third respondent shall release the gratuity amount withheld by them to the petitioner forthwith.

Sd/-

Assistant Registrar(CS IX)

Dated: 04/07/2018

*** Corrected as per the order
of this court dated 20.08.2018 made in
WP.No. 45803 of 2006**

Sd/- Assistant Registrar(CS IX)

Dated: 12/09/2018

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
National Council for
Co-operative Training,
Jawaharlal Nehru National
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3rd Floor, No.3,
Siri Institutional Area,
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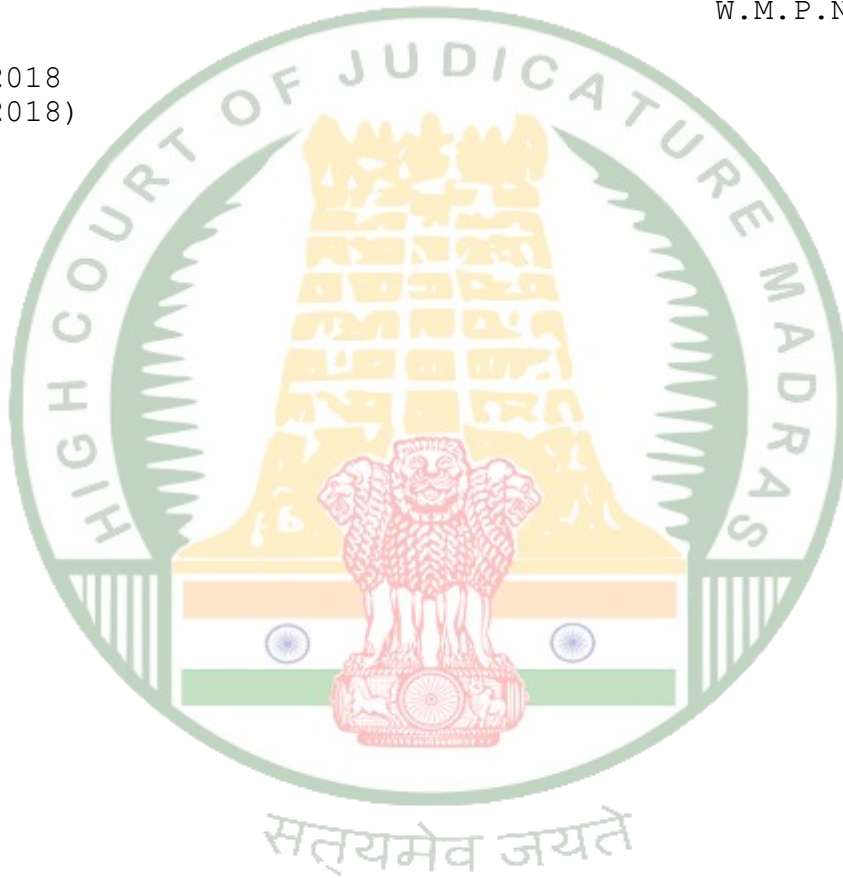
To be
Substituted to the
order already
despatched on
17/07/2018

6. The Principal,
Natesan Institute of Co-operative Management,
No.2377-A, 4th Avenue,
Anna Nagar,
Chennai-600 040.

+1cc to Mr.K.S.V.Prasad, Advocate sr.no.38113

W.P.No.45803 of 2006
and
W.M.P.No.1 of 2006

nr 05/07/2018
GN(12/09/2018)



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