

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.20026 of 2008
and WMP.No.2 of 2008

S.Subramani

...Petitioner

Vs

1. The State of Tamil Nadu
Rep. by its Secretary,
(Housing and Urban Development),
St. George Fort, Chennai 9.
2. The Executive Engineer and
Administrative Officer (in charge),
Salem Housing Unit,
Tamilnadu Housing Board,
Ayyanthirumalai Road, Salem District.

...Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the records relating to the Government order in G.O.Ms.No.350, dated 01.10.2004, (Housing and Urban Department) and also the consequential order passed by the 2nd respondent vide his office proceedings proc. No.G2/1772/08, dated 09.07.2008 and quash the same.

For Petitioner : Mr.I.C.Vasudevan

For Respondents : Mr.B.Anand, G.A., for R1
Mr.R.Bharath Kumar, for R2

ORDER

Heard the learned counsels appearing on either side and perused the materials available on record.

2. This Writ Petition has been filed for issuance of a Writ of Certiorari, calling for the records relating to the Government order in G.O.Ms.No.350, dated 01.10.2004, (Housing and Urban Department) and the consequential order passed by the 2nd respondent in his office proceedings dated 09.07.2008 and quash the same.

3. The petitioner was appointed in the judicial service as Junior Assistant on 15.07.1980 and subsequently, he was promoted as Assistant on 25.11.1988 and as Head Clerk on 10.10.1996. In 1999, the second respondent allotted a quarters to the petitioner at B-54, Maruthi Nagar, Tamilnadu Housing Board, Namakkal. The petitioner attained the age of superannuation on 31.03.2008, however, he was placed under suspension on 28.03.2007, by the order of the learned Principal District Judge, Namakkal.

4. It seems that since the petitioner was suspended on 28.03.2007, the second respondent had claimed penal rent of Rs.14,575/- per month from 01.04.2007 by invoking G.O.Ms.No.30, Housing and Urban Development Department, dated 01.10.2004.

5. The learned counsel for the petitioner would urge that the G.O. impugned in this Writ Petition is arbitrary and against the principles of natural justice.

6. Per contra, the learned Standing Counsel for the second respondent would state that the petitioner would be retiring from service on 31.03.2008, however, he was placed under suspension from 28.03.2007 and he surrendered the possession of the flat to the second respondent only on 08.09.2008. In the interregnum, the petitioner is liable to pay penal rent as per G.O.Ms.No.30, dated 01.10.2004 to the tune of Rs.2,38,108/-.

7. It is seen that the petitioner challenges the demand made by the second respondent on the only ground that it was issued without providing any opportunity to the petitioner.

8. However, I am not able to find any substance in the contention of the petitioner. As per G.O.Ms.No.30, dated 01.10.2004, the second respondent is entitled to claim penal rent from the petitioner from the date of suspension of his service. Further, the petitioner has not made out any ground, to set aside / quash the G.O. except stating that it is an arbitrary exercise of power. Hence, I find no merit in this Writ Petition. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

pvs

To

1. Secretary,
The State of Tamil Nadu
(Housing and Urban Development),
St. George Fort,
Chennai 9.
2. The Executive Engineer and
Administrative Officer (in charge),
Salem Housing Unit,
Tamilnadu Housing Board,
Ayyanthirumalai Road,
Salem District.

+1cc to the Government Pleader Sr.64202
+1cc to M/s.R.Bharathkumar, Advocate Sr.64044

W.P.No.20026 of 2008

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srg 14/09/2019