

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.12.2019
CORAM
THE HON'BLE MR.JUSTICE N.ANAND VENKATESH
W.P.No.33457 of 2019 and WMP No.33927 of 2019

L.K.Bhaktha Gowri

... Petitioner

Vs.

1. The State of Tamil Nadu,
represented by its Secretary to Government,
Education Department, Secretariat,
Chennai 600 009.
 2. The Principal Accountant General,
Office of the Accountant General (A&E),
Tamil Nadu, Chennai.
 - 3.The District Adi-Dravidar Welfare Officer,
Cuddalore District,
Cuddalore
- ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in Na.Ka.No.W9/204/2016 dated..12.2016, on the file of the 3rd respondent and quash the same as illegal, incompetent and without jurisdiction and further direct the respondents to reimburse the gratuity amount of the petitioner for a sum of Rs.2,87,987/- within a stipulated time with 12% interest per annum.

For Petitioner : Mr.M.Muruganantham

For Respondent : Mr.V.Annalakshmi
Government Advocate

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O R D E R

This writ petition has been filed challenging the impugned order passed by the 3rd respondent dated ..12.2016, refusing to consider the representation made by the petitioner to reimburse the gratuity amount of the petitioner, which has been withheld to the tune of Rs.2,87,987/-.

2. The petitioner was appointed as a Secondary Grade Teacher in the year 1970 and she superannuated as a PG Assistant in the year 2006. While settling her terminal benefits, a sum of Rs.2,87,987/- was recovered from the gratuity payable to the petitioner on the ground that the petitioner has been paid an excessive amount to the tune of Rs.2,87,987/-.

3. The petitioner approached this Court and filed WP No.34892 of 2012, seeking for a direction to the concerned authority to consider the representation made by the petitioner and pass appropriate orders. The 3rd respondent passed an order during August 2016 and rejected the representation made by the petitioner, which became the subject matter of challenge before this Court in WP No.34628 of 2016. This Court while dealing with the said writ petition, had set aside the impugned order passed by the 3rd respondent and given the following directions :-

8. Keeping the submissions made by the learned counsel for the petitioner, I have carefully gone through the materials available on record. It is the case of the petitioner that based on her representation, she was paid salary on par with her junior, who was equally placed. But on the date of retirement, the amount was recovered from her terminal benefits stating that the said amount was excessively paid on the misrepresentation made by her. Aggrieved over the same, the petitioner has filed W.P.No.34892 of 2015 and pursuant to the direction given by this Court, now the impugned order has been passed. But, on perusal of the impugned order, I find that in the said order it has not been explained as to how a sum of Rs.2,87,987/- was said to have been excessively paid to the petitioner. The impugned order passed by the third respondent is non-speaking in nature.

9. Hence, this Court set aside the impugned order and the matter is remanded back to the third respondent, with a direction to pass a detailed order on the petitioner's representation dated 22.10.2015, on merits and in accordance with law, within a period of four weeks from the date of receipt of receipt of a copy of this order.

4. Pursuant to the order passed by this Court, the petitioner made yet another representation and the 3rd respondent on receipt of the representation and the order passed by this Court, has passed the impugned order, which is now the subject matter of challenge in this writ petition.

5. The learned counsel for the petitioner submitted that the petitioner has been knocking the doors of this Court from the year 2015 onwards and the 3rd respondent has mechanically passed the present impugned order without any application of mind and the petitioner is now aged about 71 years and she was not able to approach this Court immediately to challenge the impugned order passed by the 3rd respondent. The learned counsel submitted that the impugned order passed by the 3rd respondent is liable to be set aside by this Court on the ground that it was passed without any application of mind and it was passed without taking into consideration the directions issued by this Court in earlier WP No.34628 of 2016.

6. Per contra, Mrs.V.Annalakshmi, learned Government Advocate appearing for the respondents submitted that the petitioner is not entitled for the reimbursement of the amount, since the petitioner had misrepresented, which resulted in the payment of the excess amount and therefore, at the time of settling the terminal benefits, this excess payment was detected by the authority and it was retained. The learned counsel further submitted that the petitioner is not entitled for reimbursement of the amount and therefore, there are no grounds to interfere with the impugned order passed by the 3rd respondent.

7. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

8. It is seen from the impugned order passed by the 3rd respondent that it suffers from a clear non application of mind. What the 3rd respondent has done is that he has copied and pasted the earlier impugned order that was passed in August 2016. Strictly speaking, the impugned order passed by the 3rd respondent is against the directions given by this Court. This Court had strictly directed the 3rd respondent to give the particulars as to how the 3rd respondent has come to a conclusion that a sum of Rs.2,87,987/-has been paid excessive to the petitioner. The 3rd respondent instead of giving the particulars in the impugned order, has merely copied and pasted the earlier impugned order. On this sole ground, the impugned order passed by the 3rd respondent is liable to be interfered with by this Court.

9. In the result, the impugned order passed by the 3rd respondent in Na.Ka.No.W9/204/2016, dated ...12.2016 is hereby quashed and the 3rd respondent is directed to strictly comply with the earlier order passed by this Court in WP No.34628 of

2016 and give an opportunity to the petitioner to make a representation and pass orders within a period of two weeks from the date of receipt of copy of this order. It is made clear that if the 3rd respondent comes to a conclusion that the petitioner is entitled for reimbursement of the amount, the same shall be done immediately without awaiting for any further orders of this Court.

10. This writ petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
Education Department, Secretariat,
Chennai 600 009.
2. The Principal Accountant General,
Office of the Accountant General (A&E),
Tamil Nadu, Chennai.
3. The District Adi-Dravidar Welfare Officer,
Cuddalore District,
Cuddalore

+1 cc to M/s.M.Muruganantham Advocate sr.100542

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