



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2019

CORAM

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P(MD) No.8591 of 2019
and
WMP(MD) No.6710 of 2019

M.J.Prabhu

... Petitioner

vs.

1.The Director of Health Services,
O/o.The Director of Health Services,
DMS Complex, Teynampet,
Chennai.

2.The Deputy Director of Health Services,
O/o.The Deputy Director of Health Services,
Old Military Lane, Palayamkottai,
Tirunelveli - 627 002.

3.The Block Medical Officer,
Government Primary Health Centre,
Mukkudal, Tirunelveli District.

4.The Executive Engineer,
Public Works Department,
(Building Construction cum
Maintenance Section),
Tirunelveli.

... Respondents

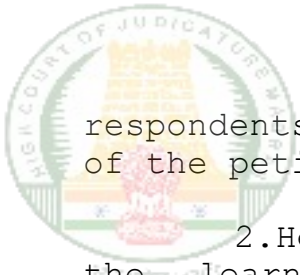
Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to forbear the respondents 2 and 3 from deducting any amount from the salary of the petitioner towards House Rent and consequently for a direction to the respondents 2 and 3 to refund the rent collected for the allotment of the dilapidated house to the petitioner.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.V.Anand
Government Advocate

ORDER

The relief sought for in this writ petition is to forbear the



respondents from deducting the house rent allowance from the salary of the petitioner in respect of the allotted house to him.

2. Heard the learned Counsel appearing for the petitioner and the learned Government Advocate who takes notice for the respondents. By consent, the writ petition is taken up for final disposal at the stage of admission itself.

3. The learned counsel appearing for the petitioner submitted that in an identical case in W.P.(MD)No.9764 of 2012, dated 06.03.2018, this Court has passed the following orders:

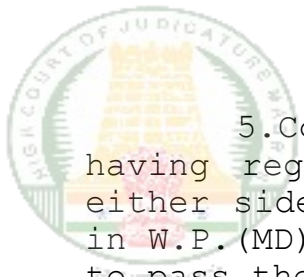
"3. The order of the second respondent in proceeding, dated 18.02.2009 states that the Government Quarters attached with the Primary Health Centre at Moolakaraipatti is not fit for dwelling purpose and a Certificate was sought for from the Public Works Department. This being the factum of the case, this Court is of an opinion that by allotting a house which is not fit for dwelling purpose, the authority cannot recover the House Rent Allowance from the salary of the Government Officer. The Writ Petitioner was employed as a Medical Officer and therefore, a decent accommodation is certainly to be provided. If a damaged house is provided for a Medical Practitioner, then this Court is unable to understand how a Doctor can reside in a damaged house and perform his duties and responsibilities to the satisfaction of the public in general. It is the duty on the part of the Public Works Department to maintain the Government Quarters and made it fit for dwelling purpose and then hand-over the same to the Officer concerned. In the present case, it is established that the Government Quarters was not fit for dwelling purpose and therefore, the recovery of House Rent Allowance from the salary of the Writ Petitioner is certainly untenable.

4. In this view of the matter, the respondents are directed not to recover the House Rent Allowance from the salary of the Writ petitioner till the Government Quarters is repaired and made ready for dwelling purpose.

5. Accordingly, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Thus, the learned counsel prayed for a similar order in this writ petition also.

4. The learned Government Advocate appearing for the respondents has no objection in directing the respondents 2 and 3 to consider the claim of the petitioner in the light of the earlier order of this Court.



5.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also in the light of the order passed by this Court in W.P.(MD)No.9764 of 2012, dated 06.03.2018, this Court is inclined to pass the following order:

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"The respondents 2 and 3 are directed not to recover the house rent allowance from the salary of the petitioner till the Government Quarters is repaired and made ready for dwelling purpose."

6.The writ petition is disposed of with the above direction. No costs. Consequently, WMP(MD)No.6710 of 2019 is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Director of Health Services,
O/o.The Director of Health Services,
DMS Complex, Teynampet,
Chennai.
- 2.The Deputy Director of Health Services,
O/o.The Deputy Director of Health Services,
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Mukkudal,
Tirunelveli District.
- 4.The Executive Engineer,
Public Works Department,
(Building Construction cum
Maintenance Section),
Tirunelveli.

+1cc to Mr.T.Lajapathi Roy, Advocate, SR.No. 60361
+1cc to M/s.Special Government Pleader,SR.No.60759

W.P (MD) No.8591 of 2019