



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.19475 of 2014

and

M.P(MD) .Nos.1 and 2 of 2014

A.Radhakrishnan

... Petitioner

-Vs-

1.The Director of Public Health Service
and Preventive Medicine
No.359, DMS Complex
Anna Salai, Teynampet
Chennai 600 006

2.The Deputy Director of Health Service
Viswanathapuram
Madurai 14

3.The Resident Audit Officer
Pay and Account Office
No.224, South Veli Street
Madurai 625 001

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent's impugned order in R.No.1421/A1/2011, dated 30.08.2013 and quash the same as illegal and consequently direct the respondents to give two advance increments in the light of G.O.Ms.No.97 Personnel and Administrative Reforms (FR.IV) Department, dated 05.07.2010.

For Petitioner : Mr.V.P.Rajan
For Respondents : Mr.S.Dhayalan
Government Advocate



ORDER

The Writ petition has been filed to call for the records of the 2nd respondent's impugned order in R.No.1421/A1/2011, dated 30.08.2013 and quash the same as illegal and consequently direct the respondents to give two advance increments in the light of G.O.Ms.No.97 Personnel and Administrative Reforms (FR.IV) Department, dated 05.07.2010.

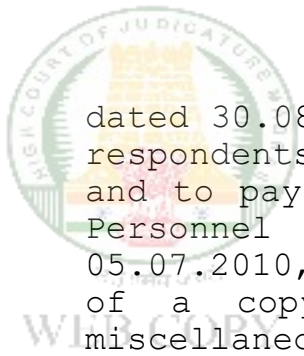
2.The learned counsel for the petitioner would submit that the petitioner was working as Junior Entomologist. The Government issued G.O.Ms.No.97, Personnel and Administrative Reforms Department, dated 05.07.2010 for grant of two advance increments to the Government servant who acquired post graduate qualification in certain speciality. Accordingly, two advance increments was effected from May 2002 to the 25 Junior Entomologists, who are working through out the Tamil Nadu including the petitioner. All of a sudden, the second respondent passed an impugned order of recovery, dated 30.08.2013 to recover the two advance increments granted with effect from 2002 citing the Audit objection raised by the third respondent. The grievance of the petitioner is that the Audit objection has been raised in Madurai District only against the grant of two advance increments and in other Districts, there is no Audit Objection with regard to grant of two advance increments.

3.The respondents 1 and 2 filed their counter and in paragraph 9(c) therein, it is specifically stated that the respondents 1 and 2 are receiving the monthly payment through the Pay and Accounts Office, Chennai and Madurai, but all other staff in the other districts are receiving payment through the District Treasury/Sub Treasury and therefore, audit objection was raised only in Madurai by the 3rd respondent and recovery has been effected on the petitioner and one Tmt.T.Shanthi and therefore, would pray that the interference of this Court is not necessary.

4.Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

5.It is an admitted fact that the advance increment has been obtained by all the other persons of the same category. Whereas, recovery order has been issued only against two persons namely, the petitioner herein and one Tmt.T.Shanthi. It is also seen that the increment was granted based on G.O.Ms.No.97, dated 05.07.2010 and till date all others are enjoying the benefit of the said G.O and only the petitioner who is at Madurai alone has faced recovery proceedings and such order has been passed without any notice. There cannot be any discrimination among the same set of employees and therefore, I am inclined to interfere with the impugned order.

6.Accordingly, the order passed by the second respondent,



dated 30.08.2013 is set aside and this Writ petition is allowed. The respondents are directed to pay the refund amount already recovered and to pay the two advance increments in the light of G.O.Ms.No.97 Personnel and Administrative Reforms (FR.IV) Department, dated 05.07.2010, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

msa

To

1.The Director of Public Health Service
and Preventive Medicine
No.359, DMS Complex
Anna Salai, Teynampet
Chennai 600 006

2.The Deputy Director of Health Service
Viswanathapuram
Madurai 14

3.The Resident Audit Officer
Pay and Account Office
No.224, South Veli Street
Madurai 625 001

+1 CC to M/s.V.P.RAJAN, Advocate (SR-105536[F] dated 18/12/2019)

+1 CC to M/s.SPL.GP (SR-105980[F] dated 19/12/2019)

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