



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2019

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos. 1738 and 1739 of 2015

and

M.P. (MD) .Nos. 1 & 1 of 2015

and

W.M.P. (MD) .Nos. 3994 and 4227 of 2016

1. Paranthaman ... Petitioner in W.P. (MD) .No. 1738/14
2. Sathyanesan ... Petitioner in W.P. (MD) .No. 1739/14

Vs.

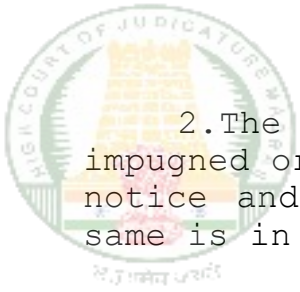
1. The Secretary to Government,
Health and Family Welfare Department,
Government of TamilNadu,
Secretariat,
Chennai-9.
2. The Deputy Director of Health Services,
Nagercoil,
Kanyakumari District.
3. The Block Medical Officer,
Government Primary Health Centre,
Arudesam,
Kanyakumari District. ... Respondents in both W.Ps

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the third respondent in R.No.1299/A2/2013 dated 16.10.2014 and to quash the same and consequently direct the respondents to refund the amount recovered from the petitioners in pursuant to the said proceedings.

For Petitioners : Mr.V.Kannan
For Respondents : Mr.K.Mu.Muthu
Additional Government Pleader

COMMON ORDER

The impugned order of recovery dated 16.10.2014 was issued based on the audit objection.



2.The learned counsel for the writ petitioners state that the impugned order of recovery was issued without issuing any show cause notice and opportunity to the writ petitioners and therefore, the same is in violation of the principles of natural justice.

3.The writ petitioners were working as Health Inspector Grade-I in the Department of Public Health and Preventive Medicine and based on the audit objection, the impugned order of recovery has been issued. This Court is of the considered opinion that any order affecting the monitory benefits of the Government employee cannot be issued without providing an opportunity to defend their cases.

4.The learned Additional Government Pleader appearing on behalf of the respondents is unable to establish that the show cause notice was issued to the writ petitioners. Under these circumstances, this Court is of the considered opinion that the present writ petition is a fit case for remand. Accordingly, the following orders are passed:

(i)the impugned order passed by the third respondent in proceeding R.No.1299/A2/2013 dated 16.10.2014, is quashed.

(ii)the respondents are directed to issue a show cause notice setting out all the facts and details of the writ petitioners within a period of four weeks from the date of receipt of a copy of this order. On receipt of any such show cause notice, the writ petitioners are at liberty to submit their representation/explanation within a period four weeks from the date of receipt of a show cause notice. Thereafter, on receipt of such explanation, the competent authorities/respondents is empowered to consider the merits as well a the materials available on record and pass orders as expeditiously as possible and preferably within a period of 12 weeks therefrom.

(iii)With the above directions, these Writ Petitions stand allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

To

1.The Secretary to Government,
Health and Family Welfare Department,
Government of TamilNadu,
Secretariat,
Chennai-9.



2.The Deputy Director of Health Services,
Nagercoil,
Kanyakumari District.

3.The Block Medical Officer,
Government Primary Health Centre,
Arudesam,
Kanyakumari District.

+2 CC to M/s.V. KANNAN, Advocate, SR NO.82986 & 82987

+1 CC to M/s.SPL GP (SR-83196[F] dated 22/08/2019)

W.P. (MD) Nos.1738 and 1739 of 2015
and

M.P. (MD) .Nos.1 & 1 of 2015
and

W.M.P. (MD) .Nos.3994 and 4227 of 2016
21.08.2019

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