WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.6533 of 2020
and
W.M.P(MD)No.5876 of 2020

B.Rajakumar ... Petitioner

Vs.

The Principal District Judge,
Ramanathapuram,
Ramanathapuram District. ... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India, seeking to issue a writ of Certiorari to call for the records pertaining to the impugned order of re-fixation passed by the respondent in Order No.B1/29/2020, dated 11.03.2020 and the impugned order of recovery passed by the respondent dated 30.01.2020 and quash the same.

For Petitioner : Mr.R.V.Rajkumar

For Respondent : Mr.N.Tamilmani

* * * * *

ORDER

[Order of the Court was made by **P.N.PRAKASH,J.**]

Challenging the orders dated 30.01.2020 and 11.03.2020 passed by the learned Principal District Judge, Ramanthapuram, whereby a sum of Rs.10,21,679/- (Rupees Ten lakhs Twenty One Thousand Six hundred and Seventy Nine Only) has been directed to be recovered from the petitioner herein on the ground that the amount was paid in excess, this writ petition for a writ of Certiorari has been preferred.

2. The learned Counsel appearing for the petitioner contended that before passing of the impugned order, no show cause notice was served on the petitioner nor the petitioner was called upon to give his explanation.

3. We called Mr. R. Shanmugasundaram, Principal District Judge, Ramanathapuram, who passed the impugned order by audio call attached to the speakers in the Court Hall so that everyone could hear what he spoke. He stated that the petitioner was earlier employed in Virudhunagar District and since then there was a discrepancy in fixation of his pay scale and that he was aware of

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

the same. However, the learned Judge informed us that after he had taken over the charge as Principal District Judge he had not given any show-cause notice before passing the impugned orders, which are under challenge.

4. When we told the learned counsel for the petitioner that we will set aside the impugned orders on this short ground alone and remand the matter to the Principal District Judge, Ramanathapuram, giving liberty to the petitioner to submit his representation, the learned counsel agreed.

5. In view of the above, interests of justice will be served if the impugned orders are set aside and the matter remanded to the Principal District Judge, Ramanathapuram, for giving an opportunity to the petitioner to give his representation. Further, we find that in the impugned order dated 30.01.2020, there is an annexure which sets out vividly the fixation of pay of the petitioner at various stages and this explains the circumstances under which excess payment was made to the petitioner. Therefore, it may not be necessary to issue a fresh show cause notice to the petitioner seeking his explanation for the recovery of the excess amount. It would suffice if an opportunity is given to the petitioner to give his explanation as to why the fixation of pay is correct and the consequential recovery illegal.

In the result, this writ petition is allowed and the impugned orders dated 30.01.2020 and 11.03.2020 are hereby set aside. These two orders shall be treated as show cause notices and time is given to the petitioner till **03.07.2020** for giving a representation to the learned Principal District Judge, Ramanathapuram, who shall consider the same and pass orders in accordance with law, within a period of four weeks thereafter. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note: 1 In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

2 Issue order copy expeditiously and inform the counsel for the petitioner over phone after the order is hosted in the website.

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

To

The Principal District Judge,
Ramanathapuram,
Ramanathapuram District.

+1 CC to M/s.R.V.RAJKUMAR, Advocate (SR-13143[F] dated 05/06/2020)

W.P(MD)No.6533 of 2020
05.06.2020

KK(10.06.2020) 3P 3C

https://hcservices.ecourts.gov.in/hcservices/