BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.20139 of 2014

Nagarajan ... Petitioner

-Vs-

The Chairman and the Managing Director,
Tamil Nadu Warehousing Corporation,
No.82, Annasalai,
Guindy, Chennai-32. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondent to disburse a sum of Rs.59,194/- of the petitioner's salary benefit, which was withheld by the respondents without assigning any valid reason vide the petitioner's representation which was given on 18.09.2014 and to consider the same within a time frame as fixed by this Court.

For Petitioner : Mr.D.Saravanan

For Respondent : Mr.M.Rajarajan

ORDER

The relief sought for in the present writ petition is to direct the respondent to disburse a sum of Rs.59,194/- of the petitioner's retirement benefit, which was withheld by the respondent without assigning any valid reason.

2.The learned counsel appearing on behalf of the petitioner state that he was an employee of the respondent Corporation and retired from service on 31.10.2011. A sum of Rs.59,194/- was deducted from the retirement benefit of the writ petitioner and on enquiry, there was no proper reply furnished to the writ petitioner. The petitioner states that he has not committed any misrepresentation or fraud and therefore, such a unilateral decision taken by the respondent to withheld the terminal benefits is improper. The petitioner has narrated in the affidavit filed in support of the writ petition that as if no information was provided to him regarding the withholding of the retirement benefit. Thus, the writ petition is filed seeking a direction to disburse the said retirement benefits.

3.The learned counsel for the respondent filed a counter affidavit, wherein, it is stated that the petitioner was retired on attaining the age of superannuation with effect from the afternoon of 31.10.2011, in the post of Assistant General Manager (Internal Audit) and he was well aware of the rules and functioning of the Corporation. Thus, the statement of the writ petitioner that he has not involved in any allegation is incorrect. The Managerial Staff of the respondent undertaking is aware of the fact that the employees are responsible for the loss of storage exceeding the admissible norms. In circular dated 31.03.1995, it has been clearly informed that all the employees of the respondent Corporation were informed that if the storage loss exceed the admissible norms, the employees who worked during the period are held responsible for the liability and the collective responsibility was fixed against the employees who worked during the relevant period at their relative percentage as Ware House Manager-50%; Deputy Manager/Assistant-30%, Attender/Basic Servant/Watchman at 20% of the loss caused to the Corporation. Moreover, the Food Corporation has fixed the norms to 0.5% as maximum limit for the admissible storage loss, on the ground of arrival of weight shortage in rice stock due to the natural phenomena such as moisture, reduction and dryage/shrinkage by long term storage and the same was adopted by the respondent Undertaking. These facts are well known to all the employees of the Corporation. The storage loss is only due to improper and maintenance of stored quantity in godown without following proper preservation like chemical spraying, cleaning. In fact the above circular was followed by another circular issued by the respondent Corporation to all Warehouses, in proceedings, dated 26.03.2002 and thus, the petitioner is hardly in a position to aver that he was shocked or surprised. Based on the earlier writ petitions filed by the employees of the Corporation, pursuant to the directions of this Court to consider the representation, the representations were considered and rejected. The said orders were not challenged by the employees. It is further stated that the shortage or deficit in stock cannot be considered as a recovery and it is imposed for the purpose of making give the financial loss caused to the organisation. The Government of Tamil Nadu issued G.O.Ms.No.702, Finace (P) Department, dated 07.10.1988, directing the Government dues including over payment of pension/Family pension can be recovered from dearness allowance/additional dearness allowance on pension/family pension without the consent of the pensioner/family pensioner. The Hon'ble Supreme Court of India in ***Union of India Vs Sujatha Vedachalam*** as reported in ***2000 (9) SCC 187*** held that there is no bar in recovering excess pay, but directed that the recovery must be in easy installments. The Government of India in U.O. No.728 EV (A), dated 07.02.1978, wherein, the pensioners' relief is not covered under the Pensioners' Act and hence there is no objection to the recovery of the Government dues to the entire extent of pensioners' relief including over payment of pension and the same can be recovered from dearness allowance/additional dearness allowance on pension without the consent of the pensioners. The employees of the respondent Corporation is not eligible for pension. Hence, recovery was effected only in the encashment of leave which is perfectly legal.

4.In view of the facts and circumstances, the petitioner has not stated the entire truth in their affidavit. The affidavit filed by the petitioner without even informing the correct facts cannot be appreciated. This being the factum, the writ petitioner has not established any acceptable legal grounds for the purpose of considering the relief as such sought for in the writ petition.

5.Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (crl side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

The Chairman and the Managing Director,
Tamil Nadu Warehousing Corporation,
No.82, Annasalai,
Guindy, Chennai-32.

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