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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 16139 of 2011

G.Palani

... Petitioner

-vs-

1. The Chief Engineer,
TWAD Board,
Head Office,
Chepauk, Chennai - 5.

2. The Executive Engineer,
TWAD Board,
Maintenance Division,
Gandhi Nagar,
Tiruvannamalai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents disburse the amount deducted from the DCRG and other arrears payable to the petitioner together with interest at 18% per annum.

For Petitioner : Mr.V.Raghavachari
For Respondents : Ms.Tamilarasi
Standing counsel

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to disburse the amount deducted from the DCRG and other arrears payable to the petitioner together with interest at 18% per annum.

2. The petitioner was working as a Special Grade Assistant in the second respondent Department and retired from service on 30.06.2007. According to him, at the time of retirement from service, a sum of Rs.64,443/- was recovered from the DCRG of the petitioner, on the ground that, fixation of pay under FR.22B(5% benefit) was not applicable to the Junior Assistants with effect from W.C.E. cadre.



3. In this regard, the grievance of the petitioner is that, the said recovery was not proper, therefore, the amount has to be disbursed to the petitioner. In order to get the said amount, the petitioner has given a representation on 12.03.2011, since the same was not considered, he was constrained to issue a legal notice on 09.05.2011 to the respondents, even then, there was no positive reply from the respondents and no orders have been passed with regard to the claim of the petitioner for the disbursement of the recovery amount from his DCRG. Therefore, the petitioner has filed this Writ Petition.

4. Heard Mr.V.Raghavachari, learned counsel appearing for the petitioner who would submit that, the recovery ought not to have been made from the DCRG and therefore, the said amount is liable to be paid to the petitioner, for which, the petitioner is entitled to. However, when such request was made through the representation and legal notice as stated supra, nothing was forthcoming, therefore, the mandamus has to be issued, he contended.

5. Per contra, Ms.Tamilarasi, learned Standing counsel appearing for the respondents would submit that, in view of the wrong pay fixation, such recovery has become necessitated, therefore, that was made from the DCRG payable to the petitioner. Therefore, there is every justification on the part of the respondents to recover the amount from the DCRG of the petitioner, any how, since he has given representation as well as legal notice, the same would be considered on merits and would be disposed of accordingly, within a time frame that may be stipulated by this Court.

6. I have considered the submissions made by the learned counsel appearing for the parties and have perused the materials placed on record.

7. Since the claim of the petitioner is that, the very recovery from the DCRG itself is wrong, the said issue cannot be resolved by this Court, at this juncture, however in this regard, when the petitioner has given representation on 12.03.2011 followed by the legal notice dated 09.05.2011, the same should have been considered in proper perspective and accordingly, the disposal of those representation or legal notice could also have been made by the respondents who so far have not done. Therefore, this Court is inclined to dispose of the Writ Petition with the following orders:

"That the respondents are hereby directed to consider the representation of the petitioner dated 12.03.2011 followed by the legal notice dated 09.05.2011 and accordingly, decide the



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same on merits and in accordance with law and in this regard, if any input has to be received or obtained from the petitioner, an opportunity to that effect can be given to the petitioner by sending a notice to that effect and at any rate, the final order disposing the representation as well as legal notice cited supra shall be made by the respondents within a period of twelve weeks from the date of receipt of a copy of this order."

8. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

vji
To

1. The Chief Engineer,
TWAD Board, Head Office,
Chepauk, Chennai - 5.
2. The Executive Engineer,
TWAD Board, Maintenance Division,
Gandhi Nagar, Tiruvannamalai.

+1 CC to M/s.S. Thamizharasi, Advocate sr 15538.

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SMI(CO)
SP(15/07/2021)