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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.30450 of 2008
and M.P.No.1 of 2008

R.V.Gopalakrishnan

...Petitioner

Vs.

1.The Director of Medical & Rural Health Services,
Annasalai,Teynampet
Chennai.

2.The Deputy Director Medical Services (Leprosy)
Chest clinic,Tiruvannamalai

3.The Accountant General of Tamilnadu
361 Anna Salai
Chennai 600 018.

...Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order dated 03.11.2008 vide Na.Ka.1382/Ka/90 on the file of the 2nd respondent and quash the same and direct the 3rd respondent to continue to pay the pension without any deductions.

For Petitioner	: Ms.S.Geetha
For Respondents	: Mr.C.Selvaraj
	Government Advocate (Civil)

O R D E R

The recovery order passed by the respondents after a period of eight years after the retirement of the petitioner without notice is under challenge in this writ petition.

2. On perusal of the records, it is noted that an internal audit was conducted for the period between 01.07.1991 and 31.03.2002 on 27.06.2008. On the basis of the internal audit report dated 27.06.2008, monthly review was conducted on 13.10.2008. It was found that a sum of Rs.5,065/- remained unpaid and therefore, the first respondent has directed to



recover the money and remit it into the account. Immediately recovery order was passed on 03.11.2008, which is impugned in this writ petition making the petitioner, who retired in the year 2000, liable for the same.

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3. It is required to be noted that it is not known as to how there was a deficit or default and as to how the petitioner accountable for the same and no notice was issued to the petitioner to show cause as to why the amount shall not be recovered from him. Without following any procedure, the second respondent issued an order of recovery to the petitioner, after eight years of his retirement.

4. It is well settled that an order of recovery without notice is bad. Secondly, the internal audit was conducted on 27.06.2008, after a period of 17 years, for the period between 01.07.1991 and 31.03.2002. Such delayed internal audit by itself will vitiate the recovery proceedings. Furthermore, no reasons have been recorded as to how the petitioner is accountable for the deficit or non payment for dues. Therefore, the non speaking order of the respondents is not sustainable in law. Accordingly, the same is set aside. The writ petition is allowed. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

RR

To

1.The Director of Medical & Rural Health Services,
Annasalai, Teynampet
Chennai.

2.The Deputy Director Medical Services (Leprosy)
Chest clinic, Tiruvannamalai

3.The Accountant General of Tamilnadu
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+1 CC to The Government Pleader sr 36571.

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SSV(CO)
SP(18/08/2021)