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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 30.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

WP.NO.30028 OF 2005

AND

WMP.NO.32914 OF 2005

B.Lakshmi Das

... Petitioner

.Vs.

- 1) The Government of Tamil Nadu,
Rep. by its Secretary,
Industries Department,
Fort St.George,
Chennai 600 009
- 2) Tamil Nadu Sugar Corporation Ltd.,
rep. by the Director of Sugars,
Nandanam,
Chennai 600 035
- 3) Perambalur Sugar Mills,
Rep. by its Chief Executive Erayur,
Perambalur District.
- 4) Maduranthagam Co-operative Sugar
Mills, rep., by its Special Officer,
Padalam, Kancheepuram.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, declaring that the action of the respondents in making recovery of a sum of Rs.85,750/- from the petitioner's terminal benefits and proposing to recover a further sum of Rs.12,250/- from the petitioner as null and void, arbitrary and without jurisdiction and directing the third respondent to refund Rs.85,750/- forthwith along with interest at the rate of 12% per annum and forbear the respondents from making any further recovery from the petitioner, Award costs and render justice.



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For Petitioner : Mr.V.Ajoy Khose
For R-1 : Mr.M.S.Palanisamy,
Special Government Pleader
(Co-operatives)
For R-2 : Mr.R.Parthiban
For R-4 : Mr.R.Gopinath

O R D E R

This Writ Petition has been filed seeking for Writ of Declaration that the action of the respondents in making recovery of a sum of Rs.85,750/- from the petitioner's terminal benefits and the proposal to recover a further sum of Rs.12,250/- from the petitioner as null and void, arbitrary and without jurisdiction and also for a direction to the third respondent to refund Rs.85,750/- forthwith along with interest at the rate of 12% per annum and forbear the respondents from making any further recovery from the petitioner and award costs.

2.The background of the case is that water is drawn from Vellar River to Perambalur Sugar Factory through underground pipeline. There was an agreement between Public Works Department of Tamil Nadu Government and the Sugar Factory relating to payment of water charges. The water charges are paid by the Factory as per the meter reading. The petitioner, who was working as Technical Assistant (Civil) was responsible to oversee the regular flow of water from the pump house to the Factory and for the maintenance of the pipeline. There was a letter from the Public Works Department that from 01.12.1993 to 03.09.1994, meter was not functioning. Hence, penalty of Rs.6.86 Lakhs was imposed. The A.G. Audit submitted an Audit report to collect a sum of Rs.6.86 Lakhs from 7 persons @ Rs.98,000/- per head and the same shall be deducted from the monthly salary. Challenging the order of recovery, the petitioner has approached this Court.

3.The petitioner has taken a stand that he was not issued any notice before passing of the order of recovery and also without fixing any responsibility on the petitioner and against the settled procedure.

4.Learned counsel appearing for the respondents brought to the notice of this Court an order passed by this Court in respect of other officials from whom the recovery has been made. From the perusal of the order passed in W.P.Nos.19861 to 19863 of 2007 dated 03.09.2007, it is noted that the co-delinquents of



the petitioner have raised the very same point. The very same issue was found to have discussed and decided, wherein, this Court has observed that a Committee was constituted to investigate into the matter and they fixed the responsibility on the 7 Assistant Engineers, who were working in the Electrical Department. Each one of them were working in different durations. It is relevant to note that the petitioner has also participated in the enquiry and as a result of which, liability was fixed on him also among others. Therefore, the petitioner cannot complain of violation of Principles of Natural Justice. Since the meter was not attended by the responsible officers over a period between 1993 and 1994, it cannot be said that the respondents have failed to fix the responsibility on one person who had committed the fault. The number of days they worked was calculated and appropriately quantum of recovery was also decided. But the said report was not at all challenged by the petitioner. Therefore, in view of the Committee's report, which has become final and upheld by this Court in W.P.Nos.19861 to 19863 of 2007, the consequential order of recovery cannot be interfered at this distance of time.

5.However, the learned counsel for the petitioner would submit that out of the 7 persons, who were working in different durations, the petitioner was not at all working in the Department and the number of days he worked is very meager. Therefore, there is some discrepancy in fixing the quantum of recovery, it should be fixed according to the actual number of days he worked in the Department. Insofar as that aspect is concerned, though it is belated, liberty is granted to the petitioner to make a representation to the concerned Authority. On such representation being made, a direction is given to the authority to dispose of the same in accordance with law, within a period of two (2) months from the date of receipt of the order.

6.With these observations, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sts/tk



To

1) The Secretary,
Industries Department,
Fort St.George,
Chennai 600 009.

2) The Director of Sugars,
Tamil Nadu Sugar Corporation Ltd.,
Nandanam, Chennai 600 035.

+lcc to Mr.V.Ajoy Khose, Advocate, S.R.No.37154

+lcc to Mr.R.Parthiban, Advocate, S.R.No.37596

WP.NO.30028 OF 2005

PCH(CO)
CS/20/09/2021