



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2022

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.2376 of 2022
and W.M.P.No.2536 of 2022

Dr.R.Damodharan

... Petitioner

Vs.

1. The Director,
Department of Public Health and
Preventive Medicine,
Chennai - 600 006.

2. The Deputy Director of Health Services (i/c),
Nagapattinam,
Nagapattinam District.

3. The Accountant General,
316, Anna Salai,
Teynampet, Chennai - 600 016.

... Respondents

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned order of recovery made in Na.Ka.No.7163/Aa1-1/2008 dated 13.12.2021 passed by the 2nd respondent, quash the same.

For Petitioner : Mr.N.Manokaran

For R1 & R2 : Mr.V.Manoharan,
Additional Government Pleader

O R D E R

The relief sought for in the writ petition is for a Certiorari, to call for the records relating to the impugned order of recover made in Na.Ka.No.7163/Aa1-1/2008 dated 13.12.2021 passed by the second respondent and to quash the same.

2.Brief facts of the case:

On 10.11.1993, the petitioner was appointed as Health Officer in Tamil Nadu Public Health Service and thereafter, he was promoted to the subsequent posts and presently, he was working as a Tutor in SPM, Coimbatore Medical College from



24.07.2013. After a lapse of 13 years, the second respondent has issued an impugned order of recovery in Na.Ka.No.7163/Aa1-a/2008, dated 13.12.2021, to deduct Rs.15,701/- from the petitioner's salary pursuant to the Audit Report prepared in the year 2008 and thereafter, on 23.12.2021, the petitioner has given his representation to the respondents, but the same has not been considered. Hence, the writ petition.

3(a).The learned counsel appearing for the petitioner would submit that on 10.11.1993, the petitioner was appointed as Health Officer in Tamil Nadu Public Health Service and subsequently, he was promoted and transferred to the post of Deputy Director of Health Services, Nagapattinam and again on 21.08.2008, he transferred to the Government Mohan Kumaramangalam Medical Hospital, Salem and presently, he was working as a Tutor in SPM, Coimbatore Medical College from 24.07.2013.

3(b).He would further submit that one Mr.R.Ramados, Assistant Director/Administrative Officer (i/c) got retired on 31.03.2010 and as on the date of his retirement, there was an audit objection, but the then Deputy Director of Health Service viz., Dr.Vairamani accorded approval for his retirement and subsequent Deputy Directors have taken action against the administrative Officer, Superintendent of the account section, Assistant of the account Section and the drivers concerned, who failed to produce the vouchers. Further, the petitioner got transferred on 21.08.2008 and an Audit was held on 19.09.2008. The first respondent has issued a charge memo dated 12.12.2011 and after an enquiry, the Secretary to Government, Health and Family Welfare Department issued G.O.(D).No.662, dated 11.04.2019 by imposing the punishment of stoppage of increment for a period of one year with cumulative effect.

3(c).The learned counsel for the petitioner would submit that the impugned recovery order has been passed after the lapse of 13 years without providing opportunity to the petitioner and therefore, the respondents violates the principle of natural justice and hence, the impugned order passed by the second respondent in Na.Ka.No.7163/Aa1-1/2008, dated 13.12.2021, is liable to be quashed.

4.The learned Additional Government Pleader appearing for the respondents would submit that the petitioner being the pay drawing officer at the relevant point of time in the office of the second respondent, he is liable for not producing the receipts for fuel vouchers and further he would submit that based on the audit objection only the impugned order has been passed and the respondents have given opportunity to the petitioner.



5.Heard the learned counsel on either side and perused the materials placed on record.

6.In view of the submissions made by the learned counsels, it is appears that the impugned recovery order passed by the respondents is based on the audit objection but there is no reference that the respondents provided an opportunity to the petitioner. Therefore, this Court has no hesitation to quash the impugned proceedings issued by the second respondent in Na.Ka.No.7163/Aa1-a/2008, dated 13.12.2021 and accordingly, this Court directs the respondents to consider the petitioner's representation dated 23.12.2021 and after providing an opportunity to the petitioner, pass appropriate orders as early as possible preferably within a period of twelve weeks from the date of receipt of a copy of this order.

7.With the above direction, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Director,
Department of Public Health and Preventive Medicine,
Chennai - 600 006.
2. The Deputy Director of Health Services (i/c),
Nagapattinam, Nagapattinam District.
3. The Accountant General,
316, Anna Salai,
Teynampet, Chennai - 600 016.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.21187
+1cc to the Government Pleader, S.R.No.21375

W.P.No.2376 of 2022

PM(CO)

CT 11/04/2022