



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.14808 of 2010 and M.P. 1 of 2010

Padmavathi

... Petitioner

Versus

1. The Joint Director of Agriculture,
Kancheepuram, Kancheepuram District.
2. The Assistant Director of Agriculture,
Sriperumbudur, Kancheepuram District.
3. The Accountant General (A&E),
Anna Salai, Chennai-600 018.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in Proceedings No.A3/2306/05, dated 30.01.2009 issued pursuant to the order of the second respondent in Proceedings No.E/2667/06, dated 24.12.2007 and quash the same and direct the respondents to refund the amount of Rs.1,72,273/- recovered from the retirement benefits of the husband of the petitioner, B.S.Elangovan.

For Petitioner : Mr.P.Manoj Kumar

For RR 1 and 2 : Mr.K.M.D.Muhilan
Government Advocate

For R3 : No appearance

ORDER

The petitioner is the widow of one B.S.Elangovan, who was working as Assistant Agricultural Officer under the respondents. He voluntarily retired from service with effect from 31.03.2004. However, after his retirement, out of the benefits to be given to him, a sum of Rs.1,72,273/- was withheld and proceedings were



initiated against him by order dated 14.08.2006, alleging that he had failed to distribute seeds and thereby caused loss of the above amount. The petitioner's husband had filed W.P.No.39429 of 2006 challenging the said order, upon finding that the order visiting the petitioner's husband with civil consequences was passed without affording an opportunity. the said Writ Petition was allowed with liberty to respondents to proceed once again afresh.

2. Thereafter, the respondents proceeded once again and issued a show-cause notice and after hearing the impugned order is passed. The impugned order, dated 30.01.2009 is challenged by the petitioner, being the widow of the said Elangovan, who since died.

3. The contention of the petitioner is that the petitioner's husband retired from service by way of voluntary retirement and the recovery order is passed long after the voluntary retirement. In any event, this Court had an action to consider the very same allegations against another Assistant Agricultural Officer, in W.P.No.29461 of 2006 and by a judgment, dated 10.10.2006, this Court has held that the particular delinquency complained in this case, that is, non-distribution of seeds etc., were held to be not the duties of Assistant Agricultural Officer and quashed the similar proceedings of the respondents. The said judgment has become final and therefore, even on the merits of the case, the respondents ought not to have ordered the recovery of the said sum from the petitioner's husband.

4. Per contra, the learned Government Advocate, relying upon the counter affidavit filed, would submit that the value of the non-distribution is being recovered as the same was, by an agreement entered on 20 rupee stamp paper, whereby the petitioner's husband had agreed that in the event of respondents finding fault in respect of any matter, the same shall be recovered from his dues and accordingly, the same has been withheld and prays for the dismissal of the Writ Petition.

5. I have considered the rival submissions made on behalf of the either side and I am not in agreement with the learned Counsel for the respondents. As rightly contended by the learned Counsel for the petitioner, the matter has been dealt with by this Court, in the earlier W.P.No.29461 of 2006 and it is useful to extract paragraph No.8 of the said judgment, which is as follows:-.

"8. It is the case of the petitioner that in his explanation submitted to the impugned



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memo that as Assistant Agricultural Officer, he is not entrusted with the stocks. As correctly pointed out by the learned counsel for the petitioner, exactly the same issue came to be decided in respect of another Assistant Agricultural Officer in O.A.No.5815 of 2001 dated 01.10.2001 wherein the Tribunal has held that even assuming that there is a failure to achieve the target of sale of seeds in a subsidized price, there can be no cause of action for recovery of amount from the salary holding that even the case of the Government is that the Government has invested money in purchasing fertilizers and other inputs which have been kept idle in the godown instead of being sold to the farmers who were entitled to purchase the same in a subsidized rate and ultimately held that in respect of Assistant Agricultural Officers, there was no entrustment and therefore, the recovery from the salary is unwarranted. That was the view taken in a subsequent case also by the Tamil Nadu Administrative Tribunal. Ultimately, when a matter was taken to this Court in W.P.No.14888 to 14892 of 2006 in S.N.Ahmed Vs. The Commissioner of Agriculture, Chennai 5 and others, in the judgment dated 21.06.2006 and also in another judgment reported in 2006(1) CTC 632, this Court has taken a definite view that it is not the responsibility of the petitioner in respect of the unsold seeds and fertilizers, the non purchase of seeds and fertilizers by the farmers may be due to various reasons like poor rainfall, non-availability of funds etc., and in such circumstances the action of the respondents in seeking to recover the amount on the basis that by non-sale the losses caused to the Government was held to be unreasonable. In fact, this court in the said judgment has followed the earlier order of this Court reported in 1988 WLR 38, wherein also this Court has held in respect of non-collection of professional taxes by the Bill Collectors working in the Corporation, the conduct of



the Corporation in making recovery from the salary of the Bill Collectors was held to be unreasonable. This was also followed in a subsequent unreported judgment."

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Therefore, it has been held in respect of respondents that the delinquency complained of, was not even the duty of the petitioner's husband and therefore, no amount can be recovered from the petitioner.

6. Thus, the petitioner is entitled to succeed and accordingly, the Writ Petition is allowed and the respondents are directed to refund the sum of Rs.1,72,273/-, without interest, within three months from the date of receipt of this order. No costs. Consequently, M.P.No.1 of 2010 is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

grs
To

1. The Joint Director of Agriculture,
Kancheepuram, Kancheepuram District.
2. The Assistant Director of Agriculture,
Sriperumbudur, Kancheepuram District.
3. The Accountant General (A&E),
Anna Salai, Chennai-600 018.

+1cc to Mr.P.Rajendran, Advocate Sr.16929
+1cc to the Government Pleader Sr.17457

W.P.No.14808 of 2010

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