



WEB COPY



W.P.No.19447 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.19447 of 2015

K.E.Govindasamy

... Petitioner

Vs.

- 1.The Director,
Adi Dravidar Welfare Department,
Chepauk, Ezhilagam,
Chennai-5.
- 2.The Chief Accounts Officer /
Financial Advisor,
Adi Dravidar Welfare Department,
Ezhilagam,
Chennai-5.
- 3.The District Adi Dravidar and
Tribal Welfare Officer,
Collectorate,
Chennnai-1.
- 4.The District Adi Dravidar and Tribal
Welfare Officer,
Kanchipuram,
Kanchipuram District.
- 5.The Accountant General,
(Accounts and Entitlements),
Anna Salai,
Chennai – 600 018.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings made in Ne.Mu.Ka.No.E2/32393/09 dated 19.11.2009 passed by the 2nd respondent herein, quash the same and consequently direct the respondents herein to disburse the entire Pension, Death cum Retirement Gratuity and other retiral benefits forthwith to the petitioner by considering his representation dated 01.02.2012.

For Petitioner : Mr.N.Manokaran

For R1 to R4 : Mr.M.Bindran
Additional Government Pleader

For R5 : Mrs.T.S.Selva Rani

ORDER

The order passed by the 2nd respondent in proceedings dated 19.11.2009 is sought to be quashed in the present writ petition.

2. The petitioner was appointed as B.T.Assistant on 10.07.2014. Admittedly, the petitioner reached the age of superannuation and retired from service on 30.11.2009. The petitioner was granted extension of service till the end of the academic year and thereafter, relived on 01.03.2010.



3. The grievance of the writ petitioner is that the 2nd respondent issued the impugned order in proceedings dated 19.11.2009, to recover the excess expenditure occurred in the hostels controlled by the Chennai District, Adi Dravidar Welfare Department.

4. The learned counsel for the petitioner made a submission that the impugned order had not been served to the writ petitioner. However, the petitioner, admittedly, attained the age of superannuation on 30.11.2009. The excess expenditures met out irregularly or illegally, were sought to be recovered by the Competent Authority.

5. Under these circumstances, the learned Additional Government Pleader appearing on behalf of the respondents raised a ground that the petitioner has reached the age of superannuation on 30.11.2009 and the impugned order was also passed before his retirement on 19.11.2009 and the petitioner filed the present writ petition after a lapse of six years in the year 2015. Therefore, the writ petition is liable to be rejected on the ground of laches.

6. This Court is of the considered opinion that if at all any order of recovery has been issued, when the petitioner was in service or during the



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eve of the retirement, the petitioner has to approach the Competent Authority or Court of Law, within a reasonable period of time. There is a delay of six years in filing the writ petition from the date of passing of the impugned order. Thus, this being the factum, the writ petition is liable to be rejected on the ground of laches. However, if the terminal and retirement benefits, if any due to the writ petitioner, the petitioner is at liberty to approach the Competent Authority for settlement of the same benefits in accordance with the Rules in force.

7. As far as the impugned order is concerned, the said order reveals that the excess expenditure met out, had caused financial loss to the State is sought to be recovered from the officer and the said order cannot be construed as infirm. Thus, this Court is not inclined to grant the relief as such sought for in the present writ petition.

8. Accordingly, the Writ Petition stands dismissed on the ground of laches. No costs.

12.07.2022

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Index : Yes

Speaking order : Yes

<https://www.mhc.tn.gov.in/judis>



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S.M. SUBRAMANIAM, J.

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