



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.31012 of 2014

and

M.P.No.1 of 2014

A.Sekar

...Petitioner

-Vs-

1.The Managing Director,
Tamil Nadu Minerals Ltd.,
TWAD House, Chepauk,
Chennai - 600 005.

2.The General Manager,
Tamil Nadu Minerals Ltd.,
TWAD House, Chepauk,
Chennai - 600 005.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the proceeding dated 11.09.2014 made in Se.Mu.Aa.No.4456/E1/2013 of the first respondent and quash the same.

For Petitioner : Mr.K.Rajasekaran

For Respondents : Mr.E.Veda Bagath Singh,
Special Government Pleader

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. When the petitioner was serving as a Divisional Manager under the first respondent herein, the respondents had passed an order dated 20.02.2013 stating that a sum of Rs.1,40,396/- was excessively paid in his monthly salaries for the period between 16.12.2009 and 31.08.2012 and accordingly, the excess payment was directed to be recovered in 28 monthly installments. Accordingly, the deductions commenced from the month of October, 2013 onwards.



3. In this background, through the impugned order dated 11.09.2014, the respondents now claim a sum of Rs.69,321/- towards interest on the excess payment made. In continuation of this impugned order, the petitioner claims that 3 monthly installments of Rs.2,496/- for the first month and Rs.2,475/- for the remaining two months were recovered and thereafter, the recovery was stopped, owing to the interim order passed by this Court in the present writ petition.

4. Admittedly, the excess payment of salary was owing to the mistake committed by the respondents in fixing the pay scale of the petitioner, while he was serving as a Divisional Manager. In the case of Syed Abdul Qadir and others Vs. State of Bihar and others reported in (2009) 3 SCC 475, it was held that the relief against recovery is granted by Courts not because of any right in the employees, but in equity, exercising judicial discretion to relieve the employees from the hardship that will be caused if recovery is ordered.

5. Following the decision in Syed Abdul Qadir's case (supra), the Hon'ble Supreme Court in the case of State of Punjab Vs. Rafiq Masih (White Washer) reported in (2015) 4 SCC 334, had held that when the recovery of excess payment is ordered, after a long duration of time, it would be iniquitous to make any recovery. However, it was also held therein that if the excess payment has been made over a period of 5 years, recovery cannot be ordered. While holding so, the Hon'ble Supreme Court had felt that such an exercise would be in violation of Article 14 of the Constitution of India.

6. The intention behind the decision in White Washer's case (supra) is to minimize the financial burden of the employee who was not at fault of having received the excess payment.

7. In the instant case, when the respondents have admitted that the payment was made owing to their fault, I do not find any justification on their part in ordering for payment of interest. The question of imposing interest would arise only in cases where the employee is at fault or has defaulted in making the payment within a stipulated time. As such, the very action of the respondents in having admitted that it was their fault and having made excess payment and seeking for interest on the same, is not only unjustifiable but also arbitrary.

8. In the light of the above findings, the impugned order dated 11.09.2014 is quashed. Consequently, there shall be a



direction to the respondents to forthwith refund the amount already recovered pursuant to the impugned order dated 11.09.2014, to the petitioner, within a period of 8 weeks from the date of receipt of a copy of this order. The Writ Petition stands thus allowed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

hvk
To

1.The Managing Director,
Tamil Nadu Minerals Ltd.,
TWAD House, Chepauk,
Chennai - 600 005.

2.The General Manager,
Tamil Nadu Minerals Ltd.,
TWAD House, Chepauk,
Chennai - 600 005.

+1 CC to Mr.K.Rajasekaran, Advocate sr 22526
+1 CC to The Special Government Pleader sr 22728.

W.P.No.31012 of 2014
and
M.P.No.1 of 2014

RP (CO)
SP (12/04/2022)