



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 22049 of 2019

and

W.M.P. No. 35270 and 21316 of 2019

D.Haridass

... Petitioner

-vs-

1. The Dean,
Rajiv Gandhi Government General Hospital,
Chennai - 600 003.

2. M/s. Shriram City Union Finance (P) Ltd,
Represented by Executive Director,
Having Registered Office,
No. 123, Angappa Niacken Street,
Chennai - 600 001.

3. The Accountant General (A and E),
O/o. The Accountant General (A and E),
Tamil Nadu,
Chennai - 600 018.
(R3 impleaded vide order dated 07.02.2022
in W.M.P.No.35270 of 2019)

... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First Respondent to dispose of the representation dated 23.04.2019, to release the Death Cum Retirement Gratuity (DCRG) amount illegally withheld by the First Respondent to the Petitioner.

For Petitioner : Mr.V.S.Rameshkumar

For Respondents : Mr.Gurunathan,
Additional Government Pleader
(for R1 & R3)

Mr.K.V.Ananthakrishnan (for R2)



ORDER

Heard Mr. V.S.Rameshkumar, Learned Counsel for the Petitioner and Mr.Gurunathan, Learned Additional Government Pleader appearing for the First and Third Respondents and Mr.K.V.Ananthakrishnan, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. Though the relief sought by the Petitioner in this Writ Petition is to dispose the representation dated 23.04.2019 made by the Petitioner, it appears from the materials borne out of the record that the controversy impinges upon the attachment orders passed by the civil court relating to Death cum Retirement Gratuity (DCRG) of the Petitioner. In other words, it is a challenge to the order passed in the execution proceedings by the civil court and as held held by the Hon'ble Supreme Court of India in Radhey Shyam -vs- Chabbi Nath [(2017) 5 SCC 423), such judicial order would not be amenable in proceedings under Article 226 of the Constitution of India, but the same could be impeached under Article 227 of the Constitution of India before the jurisdictional High Court.

3. In view of the aforesaid legal position, Registry is directed to de-register the Writ Petition and return the papers to the Learned Counsel for the Petitioner so as to enable him to re-submit the same as Civil Revision Petition under Article 227 of the Constitution of India with necessary requirements as per the rules within a period of 15 days from the date of collecting papers from the Registry.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CCC)

// True Copy//

Sub Assistant Registrar



To

WEB COPY

1. The Dean,
Rajiv Gandhi Government General Hospital,
Chennai - 600 003.
2. The Accountant General (A and E),
O/o. The Accountant General (A and E),
Tamil Nadu,
Chennai - 600 018.

Copy To:-

1. The Sub Assistant Registrar,
Writ A.E Section,
High Court, Madras.
2. The Section Officer,
E.R Section,
High Court, Madras.

+2 cc to Mr.M.Sivaraman, Advocate SR. No. No.7970

W.P. No. 22049 of 2019 and
W.M.P. No. 35270 and 21316 of 2019

KV (CO)

TE (21/02/2022)