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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2022

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

W.P. Nos. 27932 and 27934 of 2017
and

W.M.P. Nos. 29972 and 29974 of 2017 and 19806 of 2018

G.Barathi

... Petitioner in both W.P.s

-vs-

1. The Director,
Institute of Mental Health,
Kilpauk, Chennai-600 010.
2. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai- 600 010.

... Respondents in both W.P.s

Prayer in W.P. No. 27932 of 2017:-

Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari to call for the records of the First Respondent's Order in K. Dis. No. 6018/E2/2008 dated 13.09.2017 and consequential Order made in Ref. No. 6018/E2/2008 dated 11.10.2017 and to quash the said Order.

Prayer in W.P. No. 27934 of 2017:-

Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari to call for the records of the First Respondent's Order in K. Dis. No. 6018/E2/2008-I dated 13.09.2017 and to quash the said Order.

For Petitioner : Mr. R.Thirugnanam (in both W.P.s)

For Respondents: Mr. M.Bindran
Additional Government Pleader
(in both W.P.s)



COMMON ORDER

Heard Mr. R.Thirugnanam, Learned Counsel for the Petitioner and Mr. M.Bindran, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner was appointed to the post of Social Worker by the First Respondent on 22.07.2010 after conducting an interview for that post. According to the Respondents, though the time scale of pay for that post was Rs. 5,200/- - Rs. 20,200/- + Grade Pay of Rs. 2,400/-, an higher scale of pay was implemented by mistake and an order for recovery of excess payment of Rs. 11,90,353/- was passed by the First Respondent by Proceedings in K. Dis. No. 6018/E2/2008 dated 13.09.2017, Proceedings in Ref. No. 6018/E2/2008 dated 11.10.2017 and Proceedings in K. Dis. No. 6018/E2/2008-1 dated 13.09.2017, which are assailed by the Petitioner in these Writ Petitions.

3. It has been brought to notice that the Government of Tamil Nadu in G.O. (Ms). No. 34, Health and Family Welfare (AA1) Department dated 11.02.2019 has made amendments to the Special Rules for the Tamil Nadu Medical Subordinate Services which have come into force with retrospective effect from 21.10.1994 and the appointment of the Petitioner in the post of Social Worker would be governed by the same with consequential monetary benefits. In such circumstances, the impugned orders are set aside and the matter is remitted to the First Respondent to determine as to whether any liability for excess payment of salary still exists and take a fresh decision on merits and in accordance with law and if any recovery for excess payment has to be made, the procedure laid down in the instructions in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 issued by the Government of Tamil Nadu shall be followed affording an opportunity of personal hearing to the Petitioner in consonance with the principles of natural justice and its outcome shall be informed to the Petitioner under written acknowledgement.

In fine, these Writ Petitions are disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar



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To

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1. The Director,
Institute of Mental Health,
Kilpauk, Chennai-600 010.
2. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai- 600 010.

+1cc to Mr. R.Thirugnanam, Advocate, S.R.No.16868

+1cc to the Government Pleader, S.R.No.17044

W.P. Nos. 27932 and 27934 of 2017

SMI (CO)
CT/20/06/2022