



W.P.(MD)No.1762 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2022

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.(MD)No.1762 of 2015

Selvasubramanian

... Petitioner

Vs.

1.Tamil Nadu Gadhi and Village Industries Board,
Through its Chief Executive Officer,
Kuralagam Buildings,
Chennai-108.

2.The Assistant Director,
Tamil Nadu Gadhi and Village Industries Board,
Tirunelveli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 07.10.2014 in R.C.No. 19823/A1/3/2014 passed by the first respondent herein, quash the same and consequently, direct the respondents herein to release all the terminal monitory benefits payable to the petitioner including the benefits like encashment of earned leave, gratuity, pension benefits and provident fund in



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respect of P.F.A/c.No.4469 after deducting the amount of Rs.33,350/- (Rupees Thirty Three Thousand Three Hundred and Fifty only) already paid towards Provident Fund, within the time frame fixed by this Court.

For Petitioner : Mr.G.Mohan Kumar

For Respondents : Mr.Raghuvaran Gopalan

ORDER

This Writ Petition has been filed praying for issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 07.10.2014 in R.C.No.19823/A1/3/2014 passed by the first respondent herein, quash the same and consequently, direct the respondents herein to release all the terminal monitory benefits payable to the petitioner including the benefits like encashment of earned leave, gratuity, pension benefits and provident fund in respect of P.F.A/c.No.4469 after deducting the amount of Rs.33,350/- (Rupees Thirty Three Thousand Three Hundred and Fifty only) already paid towards Provident Fund, within the time frame fixed by this Court.



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2. The learned counsel appearing for the petitioner submitted that the petitioner was appointed as a Bee Field Man Grade-III with the first respondent Board at Ooty. As per the oral instructions of the Assistant Director, he went to the temporary Sales Point at lower Kothagiri which was set up in connection with Deepavali in the year 1994. One Selvaraj was in-charge of the Sales Point. While so, the petitioner was informed by the first respondent that there is an outstanding due of Rs.1,52,304/- (Rupees One Lakh Fifty Two Thousand Three Hundred and Four only) payable to the Board through the credit sale and he was directed to remit the said amount. Without conducting any enquiry, the second respondent issued a Memo dated 27.05.1996 directing him to pay the amount. Hence, he has filed a writ petition in W.P.No.8980 of 1996 and the same was dismissed holding it as premature. Then, he was transferred to Tirunelveli District. Due to his family circumstances, he resigned his post on 28.05.2004 by giving resignation letter through proper channel. However, the first respondent sent a letter, dated 08.04.2005 stating that his resignation will be accepted only after clearance of the aforesaid due amount. Hence, he has filed a writ



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petition in W.P.(MD)No.2974 of 2007 and the same was allowed by giving a direction to the respondents to consider his resignation letter, dated 28.05.2004 afresh. However, the same was not properly complied with which led to the filing of the contempt petition in Cont.P(MD)No.709 of 2014. Thereafter, the petitioner's resignation letter was accepted. Now, through the impugned proceedings, dated 07.10.2014, the Provident Fund amount was disbursed to him after deducting a sum of Rs.20,638/- (Rupees Twenty Thousand Six Hundred and Thirty Eight only) without any basis. In the said proceedings, his PF Account Number is wrongly mentioned as 4468 instead of 4469. Without giving any opportunity to the petitioner, the impugned order passed for recovery is contrary to the law and the principles of natural justice.

3. Per contra, the learned counsel appearing for the respondents submitted that the impugned order of recovery does not have any connection with earlier order of recovery of Rs.1,52,304/- (Rupees One Lakh Fifty Two Thousand Three Hundred and Four only). The impugned



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order of recovery was made in connection with subsequent shortage and non-recovery of credit sale amount of Rs.12,000/- (Rupees Twelve Thousand only). On 11.11.2014, the Chief Executive Officer has issued the proceedings by incorporating the correct PF number of the petitioner as 4469, however, it has been stated that the amount due and the other details of the petitioner in proceedings dated 07.10.2014 are correct. Further, the petitioner had given an undertaking at the time of resignation of his post that he has no objection for recovery of the amount due from him. Therefore, it is not open to the petitioner to challenge the order of recovery.

4. In reply to this, the learned counsel appearing for the petitioner submitted that the principles of natural justice require the respondents to inform about the alleged non-recovery of sale amount before passing the order of recovery and give an opportunity to the employee to explain his position. Only then, the order of recovery may be passed.



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5. It is an admitted position that before passing the impugned order dated 07.08.2021 or before issuance of the corrigendum dated 11.11.2014, the petitioner was not issued with any show cause notice as to the alleged non-recovery of credit sale amount asking for his explanation. The impugned order was passed without affording reasonable opportunity to the petitioner and in the considered view of this Court, it cannot be sustained and is liable to be set aside.

6. The other submission of the learned counsel appearing for the petitioner with regard to the availability of Rs.84,813/- (Rupees Eighty Four Thousand Eight Hundred and Thirteen only) in his GPF account cannot be accepted, since the statement produced before this Court is the copy of unsigned statement. Therefore, on the basis of this statement, this Court cannot pass any orders holding that there was a sum of Rs.84,813/- (Rupees Eighty Four Thousand Eight Hundred and Thirteen only) available in the GPF Account of the petitioner. However, the petitioner can get the details of the amount available in his GPF Account, after his resignation from the respondent directly or through the Right to Information Act.



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7. It is also submitted by the learned counsel appearing for the petitioner that the surrender leave salary is not paid to him. In this regard, he had submitted a representation seeking his leave salary and other monetary benefits on 01.11.2014.

8. In fine, this Writ Petition is allowed, by setting aside the impugned order passed by the first respondent, dated 07.10.2014 in R.C.No. 19823/A1/(3)/2014 and the respondents are directed to pass appropriate orders on the representation submitted by the petitioner, dated 01.11.2014 settling the Provident Fund, surrender leave salary and other legal entitlements due to the petitioner within a period of three months from the date of receipt of a copy of this order. No costs.

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Index : Yes / No

Speaking Order : Yes / No

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G.CHANDRASEKHARAN, J.

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