



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.18405 of 2017

and

W.M.P. (MD) .Nos.14841 to 14844 of 2017

I.Santhanasamy

... Petitioner

Vs.

The Director,
Adi Dravidar Welfare Department,
Cheppakkam,
Chennai - 600 005.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the respondent in Na.Ka.No.Thal/13784/2017 dated 03.08.2017 and Na.Ka.No.03/11557/2017 dated 22.06.2017 and quash the same.

For Petitioner : Mr.S.I.Muthaiah

For Respondent : Mr.P.Thambidurai
Government Advocate(Civil Side)

ORDER

This Writ Petition has been filed challenging the impugned order dated 03.08.2017 whereby it is directing the petitioner to pay the amount of Rs.26,27,350/-.

2. The brief facts of the case are that the petitioner has been working as Warden at Kallakudi Boys Hostel, Trichy for Adi Dravidar students with an additional charge of Warden in Dr.Ambedkar College Boys at Trichy. On 17.06.2017, an inspection committee inspected the premises of the Hostels and had sent a report to the respondent. Pursuant to the report, the respondent sent a communication dated 22.06.2017 alleging that the petitioner had manipulated and encashed bogus bills of fake students at hostels and the petitioner has tendered and encashed fake bills in respect of



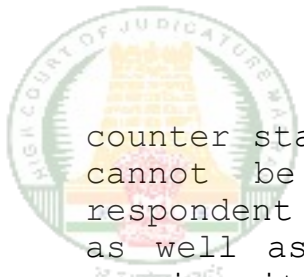
purchase of books for library and tampered with the Government accounts and misappropriated the funds of the account. The petitioner was placed under temporary suspension on 19.06.2017. A charge memo dated 22.06.2017 was issued. The petitioner submitted his explanation. In the meanwhile, the respondent has issued impugned communication of recovery of Rs.26,27,350/- amount. Aggrieved over the said impugned recovery order, the petitioner has filed this present Writ Petition.

3. The respondent has filed a counter stating that the petitioner is working as a Warden and the charge memo dated 22.06.2017 was issued. The petitioner received the payment for providing food for 530 students at hostel. He credited grants for 275 students for cosmetic expenditure thereby misappropriated the Government funds. The petitioner with the connivance of the Special Tahsildar, Adi Dravidar Welfare, Trichy has committed this grave act. After the explanation, the respondent has come to the conclusion that the explanation is not satisfactory. Hence the show cause notice was issued for recovery of Rs.26,27,350/- amount vide the impugned order. The show cause notice was issued after the reply given by the petitioner to the charge memo. In the show cause notice, calculations were based on the records of the hostel. Hence the recovery of misappropriated funds is in accordance to law. The show cause notice was issued based on the inspection committee and the charge memo was issued and in the Sub Rule (D) of the said rules, it is only for the disciplinary proceedings. These two are separate proceedings and the petitioner is bound to pay the misappropriated amount.

4. Heard Mr.S.I.Muthaiah, learned counsel for the petitioner and Mr.P.Thambidurai, learned Government Advocate(Civil Side) for the respondent.

5. The contention of the petitioner is that the impugned recovery order is a second show cause notice. Without conducting any enquiry, the respondent has come to the conclusion that the petitioner has misappropriated the amount. The respondent has not appointed any enquiry officer and it is in the stage of submission of explanation alone. The respondent has predetermined the entire issue and has come to the conclusion that the petitioner has misappropriated the amount of Rs.26,27,350/-. Moreover, the petitioner is on the verge of attaining superannuation in May 2022. But the respondent contended that the disciplinary proceedings is different from the recovery proceedings.

6. This Court is of the considered opinion that without a conclusive proof whether the petitioner has committed misappropriation, quantification of misappropriation and recovery from the petitioner is not appropriate. The respondent is directed to conclude the disciplinary proceedings within a period of two months from the date of receipt of a copy of this order. Since the



counter states that there is a co-delinquent in this issue, recovery cannot be made from the petitioner itself. Therefore, the respondent is directed to conclude the proceedings of both recovery as well as the disciplinary proceedings simultaneously. If in the enquiry it is found that the petitioner has misappropriated, then the respondents are at liberty to issue recovery order afresh. Hence, the present recovery order is set aside. Since the petitioner is on the verge of retirement, the respondents shall conclude the enquiry within a period of 12 weeks from the date of receipt of the copy of the order.

7. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Director,
Adi Dravidar Welfare Department,
Cheppakkam,
Chennai - 600 005.

+1 CC to M/s.SPL GP (SR-12501[F] dated 16/03/2022)

**W.P. (MD) .No.18405 of 2017
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MGJ(04.04.2022) 3P 3C