



W.P. No.10702 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.10702 of 2012

M.Swamikannu

... Petitioner

Vs.

1.State Commissioner,
Commissionerate for the
Welfare of the differently Abled,
No.15/1, Model School Road,
Thousand Light,
Chennai – 600 006.

2.The Chief Superintendent,
O/o. The Commissionerate for the
Welfare of Differently abled,
No.15/1, Model School Street,
Thousand Light,
Chennai-600 006.

3.The Administrative Officer,
Govt. Rehabilitation Home,
Paranur,
Chengalpattu,
PIN – 603 002.

... Respondents



W.P. No.10702 of 2012

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, calling for the records of the 3rd respondent pertaining to her notice addressed to the counsel for the petitioner made in ROC.No.249/OS/2011 dated 02.08.2011 in so far as the denial of refund of the amount recovered from the pay of the petitioner towards house rent allowance and electricity charges from the month of June 2002 to May 2011 and quash the same consequent to direct the respondents to refund the amount recovered to the petitioner.

For Petitioner : Mr.C.Premkumar

For Respondents : Mr.S.Prabakaran
Government Advocate

ORDER

The grievance of the petitioner is that the respondents have recovered the house rent allowance for which the petitioner is entitled to, together with electricity charges, in respect of the period commencing from June 2002 to May 2011, though the petitioner has vacated the quarters that was allotted to him as early as on May 2002. Aggrieved by the action of the respondents in continuing to recover the house rent allowance, together with electricity



charges from his salary, the petitioner approached this Court, on an earlier occasion, by filing a writ petition in W.P.No.8229 of 2011. The said writ petition was disposed of by this Court, by an order dated 01.04.2011, after having taken note of the fact that the petitioner had already vacated the quarters in question on 02.06.2002 and directed the respondents to consider the representation submitted by the petitioner and pass orders thereon.

2. Pursuant to the said order, the respondents have considered the representation of the petitioner and stopped the recovery of the house rent allowance with effect from June 2011, by passing an order in R.O.C.No.249/OS/2011 dated 02.08.2011. However, in respect of the house rent allowance that was already recovered from the petitioner with effect from June 2002 till May 2011 is concerned, it is stated that the said amount had already been recovered and hence the same could not be refunded as the quarters were constructed only to accommodate the Government servants for emergency in nature. Hence, the present writ petition.

3. The respondents filed counter affidavit wherein it is admitted that



the petitioner had already vacated the quarters in question as early as in the year 2002. But, for want of proper handing over of the quarters to the authority concerned, the house rent allowance amount and electricity charges were recovered from the petitioner, even after the petitioner vacating the quarters. However, no details as to how the quarters in question is required to be handed over and what is the mistake or fault committed by the petitioner is not spelled out in the entire counter affidavit or in the order dated 02.08.2011. As seen from the order dated 02.08.2011, the only reason given for not refunding the amount that was recovered for the period posterior to vacating the quarters in question is that the amount already recovered cannot be refunded. However, the said order is sought to be supported by stating that the petitioner has not properly handed over the quarters in question to the authority concerned, without substantiating as to how the petitioner is at fault. In the absence of any justifying reason given in the counter affidavit, the reason that was assigned in the order dated 02.08.2011 is unsustainable.

4. In the light of the above, this Court is of the considered view that the action of the respondents in recovering the house rent allowance and



electricity charges from the salary of the petitioner during the period from June 2002 to May 2011 is totally arbitrary and illegal. Further, the petitioner herein has worked only as Electrician and in case if there is any mistake or fault on the part of the petitioner, it would have been fair on the part of the respondents to educate the petitioner and see that the petitioner complies with the requirements if any in handing over the quarter in question, but that has not been done by the respondents at any point of time. Instead, in an arbitrary manner, they continued to recover the house rent allowance amount. For this reason also, the action of the respondents in recovering the house rent allowance, even after the petitioner vacating the quarters in question, is bound to be declared as illegal and arbitrary.

5. In the circumstances, the writ petition is allowed with costs, directing the respondents to take steps to refund the amount that was recovered from the salary of the petitioner towards house rent allowance during the period commencing from June 2002 to May 2011 together with electricity charges, if any, and refund the same as expeditiously as possible at any rate within a period of two months from the date of receipt of a copy of this order. The respondents shall also pay an amount of Rs.5,000/- to the



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petitioner towards costs of this writ petition within the time stipulated above.

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Index : Yes/No
Speaking Order : Yes/No
dpa

To:

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