



W.P.(MD)No.1352 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.1352 of 2018

and

W.M.P(MD)Nos.1434 & 1435 of 2018

S.Mangayarkarasi

... Petitioner

Vs.

1.The Senior Superintendent of Post Offices,
Virudhunagar Division,
Virudhungar.

2.Government of Tamilnadu,
Through its District Collector,
Virudhunagar District.

3.The Tahsildar,
Vembakottai Taluk,
Virudhunagar.

... Respondents



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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 notices of the second respondent vide Na.Ka.e2/4743/16 dated 29.03.2016 and quash the same as ultravires and void abinitio and consequently direct the respondents to repay the amount recovered by the first respondent from petitioner's husband namely, Subburaj with interest.

For Petitioner : Mr.S.Ram Sundar Vijayaraj
for M/s.Veera Associates

For Respondents : Mr.S.P.Maharajan - for R2 & R3
Special Government Pleader
Mr.G.Rajaraman - for R1

ORDER

This writ petition has been filed to quash the impugned notices of the second respondent vide Na.Ka.e2/4743/16, dated 29.03.2016 and quash the same as ultravires and void abinitio and consequently direct the respondents to repay the amount recovered by the first respondent from petitioner's husband namely, Subburaj with interest.



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2. The case of the petitioner is that the petitioner's husband late.

Subburaj has joined GDSSPM (Gramin Dak Sevak Sub Post Master) on 25.08.1980 and it was alleged that while he was in service at Alangulam Post Office between 17.02.1998 to 24.01.2003, he is said to have involved in various malpractises in Recurring Deposit scheme and as such, he was placed under suspension from 24.01.2003 and thereafter, he died on 08.12.2006. However, the first respondent recovered the amount to the tune of Rs.85,173/- (Rupees Eighty Five Thousand One Hundred and Seventy Three only) between 2003 to 2005 from his service benefits and thereafter, recovered another amount of Rs.5,94,314.75 p. (Rupees Five Lakhs Ninety Four Thousand Three Hundred and Fourteen and Seventy Five Paise only) between 2003 to 2012. After recovering the total amount of Rs.6,63,037.75 p., (Rupees Six Lakhs Sixty Three Thousand and Thirty Seven and Seventy Five Paise only) they passed an order as if the petitioner-widow has to pay a sum of Rs.1,47,737/- (Rupees One Lakh Forty Seven Thousand Seven Hundred and Thirty Seven only) and forwarded the same to the District Collector for recovery of the said amount under the Revenue Recovery Act, pursuant to which, the District Collector office forwarded



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the same to the petitioner as well as to the Tahsildar and the Revenue Recovery Officer recovering the amount of Rs.1,47,737/- (Rupees One Lakh Forty Seven Thousand Seven Hundred and Thirty Seven only). Challenging the same, the present writ petition is filed.

3. Heard the learned counsel on either side and perused the materials available on record.

4. This Court raised certain doubts with regard to the payment of terminal benefits in favour of the petitioner's husband and instructed the Standing Counsel for the first respondent to get instructions as to what is the due as on date. In response, the learned Standing Counsel appearing for the first respondent submitted that as on date, a sum of Rs.1,10,237/- (Rupees One Lakh Ten Thousand Two Hundred and Thirty Seven only) is pending against the petitioner. However, the impugned recovery order is for a sum of Rs.1,41,747/- (Rupees One Lakh Forty One Thousand Seven Hundred and Forty Seven only) whereas, the first respondent claims Rs.1,10,237/- (Rupees One Lakh Ten Thousand Two Hundred and Thirty Seven only).



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5. Considering the facts and circumstances of the case, this Court finds that the maximum amount was recovered from the erred employee and from the petitioner and the petitioner being a widow, she cannot be held liable for the error committed by the official respondents. Further, the respondents have collected a huge amount from the petitioner as well as from the petitioner's husband's terminal benefits. In the present case, the first respondent is not even conducting any enquiry and without conducting enquiry, the respondents recovered huge amount from the petitioner as well as from the petitioner's husband.

6. However, in order to give a quietus to this issue, the petitioner need not pay any amount to the respondents. Similarly, the respondents are also not liable to pay any amount to the petitioner. Further, the Revenue Recovery Authority mechanically had passed an order without verifying the same from the respondents. Hence, the impugned order is liable to be set aside.



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7. Accordingly, this writ petition is allowed. The impugned order is set aside. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No

RM



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M.DHANDAPANI, J.

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