



W.P.(MD)No.5150 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.5150 of 2018
and
W.M.P.(MD).No.5131 of 2018

M.P.Rajapandian

... Petitioner

Vs.

The Executive Engineer and Administrative officer,
Madurai Housing Unit,
Ellis Nagar,
Madurai District.

... Respondent

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in Letter No.B6/114/10 dated 02.01.2018 on the file of the respondent and to quash the same as illegal and consequently direct the respondent to permit the petitioner to remit the actual balance rental amount and allow to vacate the Flat in No.C 10/11.

For Petitioner : Ms.N.Gayathri

For Respondent : Mr.K.Saravanan



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ORDER

This writ petition has been filed challenging the impugned order passed by the respondent dated 02.01.2018 and to quash the same and consequently direct the respondent to permit the petitioner to remit the actual balance rental amount and allow to vacate the Flat in No.C 10/11.

2. The case of the petitioner is that he was appointed as Junior Assistant in Government Kallar Higher Secondary School, Karanakka, Muthanpatti, Theni District in the year 2011. Thereafter, he was transferred to Joint Director, Kallar Reclamation Collectorate Office, Madurai as Junior Assistant. On 09.02.2010, the respondent has allotted a rental Flat No. Old C 10/11 at Race Course Road to the petitioner and fixed a sum of Rs.720/- as rent. On 21.09.2011, he was transferred to Government Kallar Higher Secondary School, Karunakka Muthanpatti for administrative reasons and on the same day, he was relieved from the said place and joined as Junior Assistant in deputation at Joint Director Kallar Reclamation, Collectorate Office, Madurai on 21.09.2011. In the mean while, the petitioner's wife



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health was not well. Hence, on 08.11.2017, the petitioner has made a representation to the respondent and requested him to allow him to vacate the above said Flat No. C 10/11. But the respondent has informed the petitioner to pay a sum of Rs.4,700/- for maintenance charges and the petitioner has also paid the said amount on the same day to the respondent. However, the respondent, by his proceedings dated 02.01.2018, informed the petitioner to pay the balance rent of Rs.2,15,340/- before the Government Treasury and to furnish the payment receipt before the respondent and thereafter only he will be allowed to vacate the said flat. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that in the year 2010, the respondent has allotted a Flat No.Old C10/11 to the petitioner at Race Course Road and fixed a sum of Rs.720/- as rent. The petitioner continuously residing in the said place till 21.09.2011. Thereafter, though he was transferred to Government Kallar Higher Secondary School, Karunakka Muthanpatti, Theni District for administrative reasons, on the same day, he was sent back to Joint Director Kallar Reclamation,



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Collectorate Office, Madurai on deputation. However, the respondent has informed the petitioner to pay the balance rent of Rs.2,15,340/- before the Government Treasury and to furnish the payment receipt, which is not sustainable one. Hence, he prayed for allowing this writ petition.

4. The learned counsel appearing for the respondent would submit that immediately after the transfer, the petitioner has to vacate the premises and hand over the same to the Housing Board. But however, in the present case, without giving any information, the petitioner has occupied the said quarters unauthorisedly even after the transfer order passed. Hence, he has to pay penalty charges to the Housing Board. Further, G.O.(Ms.)No.454 makes it clear that after the transfer, if the Government servant occupied the Government quarters, they have to pay three times penalty to the Housing Board. Following the said G.O., the present impugned order has been passed. Hence, he prayed for dismissal of this writ petition.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent.



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6. The facts in the present case are not in dispute. Admittedly, the petitioner was joined as Junior Assistant in Government Kallar Higher Secondary School, Karanakka Muthanpatti, Theni District in the year 2011. Thereafter, he was transferred to Joint Director, Kallar Reclamation Collectorate Office, Madurai as Junior Assistant and the respondent has allotted a rental Flat No.Old C 10/11 at Race Course Road to the petitioner on 09.02.2010 and fixed a sum of Rs.720/- as rent. Thereafter, on 21.09.2011, he was transferred to Government Kallar Higher Secondary School, Karunakka Muthanpatti, Theni for administrative reasons and on the same day, he was joined in the said School. But, on the same day ie., on 21.09.2011, he was transferred to Joint Director Kallar Reclamation, Collectorate Office, Madurai in deputation. A perusal of the deputation order dated 21.09.2011 reveals that on 21.09.2011, the Headmaster sent a letter to the Joint Director Office, deputing the petitioner to the Joint Director Office on the same day and he was relieved from duty on 21.09.2011. Though the respondent claimed that intimation was sent to the petitioner, however, the fact remains that date is very much available in the



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record and without conducting any proper enquiry, imposed the penalty against the petitioner and if at all the petitioner has any due, they have to call for the record from the Joint Director before imposing the penalty. In the present case, to vacate the quarters, a sum of Rs.2,15,340/- was imposed as penalty against the petitioner, which is not sustainable one and violation of principles of natural justice.

7. In view of the above, the impugned order passed by the respondent dated 02.01.2018 is quashed and this Writ Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

21.02.2023

akv

To

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