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W.P.(MD) No.17013 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD) No.17013 of 2015

and

M.P.(MD) No.2 of 2015

and

W.M.P.(MD) No.596 of 2016

C.Jagadeesan

... Petitioner

-vs-

- 1.The State of Tamil Nadu
rep.by its Secretary of Law
Department of Law
Secretariat, St.George Fort, Chennai
- 2.The Hon'ble Registrar (Administration)
Madurai Bench of Madras High Court
Madurai
- 3.The Principal District Judge
Karur, Karur District
- 4.The District Munsif
Kulithalai Taluk
Karur District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records comprised in impugned order R.No. 295 of 2015, dated 30.04.2015 and the consequential proceedings in D.No. 280 dated 03.06.2015 issued by the present incumbent fourth respondent and quash the same as being arbitrary, illegal and ultra vires the provisions of Tamil Nadu Civil Services (Discipline and Appeal) Rules.

For Petitioner : Mr.R.Murali

For Respondents : Mr.T.Amjadkhan
Government Advocate for R1
Mr.T.S.Mohamed Mohideen for R2 to R4

ORDER

[Order of the Court was made by S.M.SUBRAMANIAM, J.]

The proceedings of the District Munsif, Kulithalai Taluk, Karur District, imposing recovery of the benefit of second increment granted to the petitioner, is under challenge in this writ petition.

2. The petitioner was appointed as Junior Assistant, in Sub Court, Thiruvannamalai, on 03.02.2010 through Tamil Nadu Public Service Commission. Admittedly, annual increments were sanctioned in favour of the



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petitioner and he was receiving the same as per the Rules in force. The petitioner was not sent for Bhavanisagar Training during his probation period as contemplated under the Rules and therefore, he was unable to complete the Bhavanisagar Training in time. However, the petitioner had not refused to undergo the Bhavanisagar Training or given any such letter to the authority concerned. The petitioner states that he was ready and willing to undergo the Bhavanisagar Training, whenever his name is sponsored by the Department. However, there was a delay in sponsoring the name of the employees to Bhavanisagar Training, for which the petitioner cannot be held responsible and therefore, the increment granted to the petitioner cannot be recovered due to the fault of the administration.

3. Learned counsel appearing for the respondents 2 to 4, on instructions, made a submission that the petitioner was sent for Bhavanisagar Training on 17.02.2014 and he underwent training training till 05.04.2014, however, he was not successful in completing the training and he was declared fail.



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4. Be that as it may, second increment was granted to the petitioner long before the above facts and the increment granted as per the Rules cannot be recovered merely on the ground that the petitioner had not undergone the Bhavanisagar Training. If at all the petitioner was not successful in the training, it is for the authorities concerned to initiate appropriate action thereafter. In the present case, the petitioner underwent Bhavanisagar Training in the year 2014 and failed. But, increment was given to him in the year 2011. That being the factum, the impugned order is liable to be quashed.

5. Accordingly, the writ petition is allowed and the impugned order, dated 30.04.2015 in R.No.295 of 2015 and the consequential order dated 03.06.2015 in D.No.280, passed by the fourth respondent, are quashed. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.] [V.L.N., J.]
13.10.2023
(2/2)

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

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To:
The Secretary of Law,
Department of Law,
State of Tamil Nadu,
Secretariat,
St.George Fort, Chennai.



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S.M.SUBRAMANIAM, J.
and
V.LAKSHMINARAYANAN, J.

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