



W.P.(MD).No.2108 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 13.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.2108 of 2016

and

W.M.P.(MD).Nos.1834, 1835 and 4944 of 2016

N.Pandiyan

... Petitioner

Vs.

1.The Commissioner,
The Department of Fisheries,
D.M.S.Complex, Teynampet,
Chennai – 6.

2.The Deputy Director,
Department of Fisheries,
Madurai Region,
Madurai – 20.

3.The Assistant Director,
Department of Fisheries,
Theni (Now at Vaigai Dam),
Periyakulam Taluk,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order of recovery in Na.Ka.No-1348/A/2003 dated 16.12.2015 (Signed on 22.12.2015) passed by the third respondent and quash the same as illegal.



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For Petitioner : Mr.G.Karthik,
For Mr.S.Rajasekar

For Respondents : Mr.N.Muthuvijayan,
Special Government Pleader.

ORDER

This Writ Petition is filed challenging the penal rent imposed on the petitioner for unauthorized occupying the quarters.

2. The contention of the petitioner is that right from appointing the petitioner in the respondent Department, the petitioner is staying in Vaigai Dam quarters. When the petitioner was transferred in the year 1998, the petitioner has submitted a requisition letter to permit the petitioner to stay in the quarters so that his family can be occupy the quarters. Having accepted the transfer order, the petitioner has served in the transfer place. In the transfer place, the petitioner has not occupied any government quarters. The contention of the petitioner is that if the petitioner has not obtained any double rental benefits, then the petitioner cannot be imposed with penal rent.

3. The contention of the respondents is that inspite of transfer, the petitioner was occupying in the said quarters which was unauthorized occupancy. Based on the order dated passed in W.A.(MD).Nos.348 and 349 of



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2011, the respondents claim that the petitioner is unauthorized occupied and the respondents are entitled to recover the penal rent from the petitioner.

4. On perusal of the records, it is seen that the petitioner has paid the admitted rent for the quarters in Vaigai Dam. The petitioner has not occupied any other government quarters inspite of transfers to several places. When the petitioner has not received double rental benefits, the petitioner is entitled to retain the quarters for his family who were occupied right from 1993 until his retirement in the year 2016. Therefore, the penal rent imposed on the petitioner is not sustainable. Moreover, the petitioner was retired in the year March 2016 and the recovery order is passed on the verge of his retirement. Now, the respondents retained the amount of Rs.73,044/- (Rupees Seventy Three Thousand and Forty Four only) from the gratuity payable to the petitioner. Therefore, this Court is inclined to quash the impugned order. Hence, the impugned order is quashed. The respondents are directed to release the balance amount of Rs.3,16,988/- (Rupees Three Lakhs Sixteen Thousand Nine Hundred and Eighty Eight only) to the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order. However, it is made clear that the petitioner is not entitled to any interest.



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5. This Writ Petition is allowed on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

13.02.2023

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

To

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S.SRIMATHY, J.

Nsr

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