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W.P.No.12538 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

W.P.No.12538 of 2015

R.Ravi

... Petitioner

-Vs-

1.The Principal
Periyar Arts College,
Cuddalore 607 001

2.The Principal Accountant General(A&E),
O/o The Principal Accountant General
No.361, Anna Salai,
Teynampet,
Chennai 600 018

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent pertaining to its order bearing No. Na.Ka.0012/E/2014 dated 13/03/2014 and quash the same and consequently direct the respondents to pay back the recovered sum of Rs.1,04,659/- along with interest @ 9% p.a from 01/04/2015 till the date of realisation.



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For Petitioner : M/s.G.Rajkumar
for M/s.S.Ramasamy Law Associates

For Respondents : R.1 - No appearance -served

: M/s.P.Mano Rajan,
Standing Counsel [R2]

ORDER

Challenging the order passed by the 2nd respondent dated 13.03.2014, the petitioner is before this Court.

2. It is the case of the petitioner that he had joined the 1st respondent's Department as a Lab Assistant on 13.07.1984 and had attained Selection Grade with effect from 13.07.1994 and Special Grade with effect from 13.07.2004. By transfer of service the petitioner was appointed as Junior Assistant with effect from 15.12.2010 and as an Assistant in December 2012. The petitioner had attained the age of superannuation on 31.01.2015 thereby putting in more than 30 years of unblemished service.



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4. On 31.03.2015, he had received an SMS from his banker stating that his account had been credited with a sum of Rs.5,22,269/-. After seeing this SMS he was put to utter shock as out of a total sum of Rs.6,26,928/- he had received only a sum of Rs.5,22,269/- as gratuity. Since he did not know as to why the entire



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gratuity amount had not been paid, he had approached the 1st respondent for clarification and had also submitted a written representation dated 01.04.2015, requesting the release of the balance gratuity amount of Rs.1,04,599/-. After repeated requests, the petitioner was given a copy of the 2nd respondent's proceedings dated 13.03.2013 wherein it was stated that the recovery was done on the basis of the fixation of the pay scale in the wrong fitment table from 01.03.2011 to 31.03.2013. Therefore, the petitioner has been constrained to approach this Court.

5. The 2nd respondent had filed a counter stating that the 2nd respondent had not directed any recovery. However, the learned counsel appearing from the 2nd respondent would draw the attention of this Court to the statement made in the impugned order that the recovery was made on the basis of the letter addressed by the petitioner on 12.02.2014 requesting the respondents to deduct the excess amount wrongly calculated for the period 01.03.2011 to 31.03.2013 from out of his gratuity that was payable to him. A



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perusal of impugned order would confirm the said statement.

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6. In the impugned order, it has been stated that a sum of Rs.1,04,659/- has been wrongly credited to the petitioner's account for the period 01.03.2011 to 31.03.2013. The impugned order would further state that the petitioner in his letter dated 12.02.2014 had given instructions to the 1st respondent to deduct this sum from the gratuity amount that was payable to him and based on this letter the same had been deducted.

7. Though this Court had directed the petitioner to produce a copy of the letter dated 12.02.2014, the same was not produced. However, considering the contents of the impugned order which has not been refuted by the petitioner, it is clear that the petitioner was aware that he had been granted the excess sum of Rs.1,04,659/- for the period 01.03.2011 to 31.03.2012 and for the recovery of the same, he had also given his consent to deduct the said amount from out of the total gratuity that was payable to him. In the light of the



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above, the petitioner cannot now turn around and demand payment of the same.

8. In fine, the above Writ Petition is dismissed. No costs.

05.07.2024

(shr)

Index : Yes/No

Speaking / Non Speaking Order

Neutral Citation : Yes/No

To

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P.T.ASHA. J.,

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