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W.P.No.5152 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.5152 of 2022
and W.M.P.No.5253 of 2022

M.S.Subramanian

... Petitioner

Vs.

1. The Joint Director of Agriculture,
Nagapattinam

2. The Director of Agriculture,
Chepauk, Chennai – 5

Respondents

...

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in connection with the impugned order passed by him Ref.No.E3/3382/2016 dated 20.09.2016 and quash the same and direct the respondents to reimburse the amount recovered from the salary of the petitioner to the tune of Rs.4,39,248/- within a reasonable time along with interest @ 12% per annum.

For Petitioner : Mr.K.Dhananjayan

For Respondents : Mr.R.U.Dinesh Rajkumar,
Additional Government Pleader



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ORDER

This Writ Petition has been filed by the petitioner for issuance of Writ of Certiorarified Mandamus, calling for the records of the first respondent in connection with the impugned order passed by him in Ref.No.E3/3382/2016 dated 20.09.2016 and to quash the same. Consequently, to direct the respondents to reimburse the amount recovered from the salary of the petitioner to the tune of Rs.4,39,248/- within a reasonable time along with interest @ 12% per annum.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

3. The petitioner was appointed as Field Demonstration Officer on 17.02.1986 and subsequently, was promoted to the post of Assistant Agricultural Officer on 18.08.1998. The petitioner along with the Superintendent are incharge of the godown maintained by the Department, wherein agricultural implements, manure, seeds and other perishable and non perishable items including pesticides were kept in order to supply to the



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agriculturists at permissible rate / concessional rate. On 16.03.2016, an inspection was conducted by the Superintendent at Mayiladuthurai Agriculture Extension Centre where they found that there was shortage of materials to the tune of Rs.4,39,248/-. Subsequently, a memo was issued to the petitioner on 03.05.2016 stating that on inspection, they found shortage of materials to the tune of Rs.4,39,248/- and held that, the petitioner as Manager is responsible for the shortage of materials and directed to remit the same to the Government Account failing which, it will be recovered from the salary of the petitioner. Thereafter, the Joint Director of Agriculture passed an order dated 20.09.2016 to recover the amount of Rs.4,39,248/- from the salary of the petitioner and the same was recovered. Aggrieved by the order of recovery dated 20.09.2016, the petitioner has preferred this present writ petition.

4. The learned counsel for the petitioner mainly contended that since the petitioner has submitted his representation to the memo issued and an enquiry has to be conducted before passing an order of recovery. In the present case, no such enquiry was conducted and the order of recovery was issued without providing an opportunity to the petitioner for adjudication of



the disputed fact. Hence, the impugned order issued by the 1st respondent is liable to be set aside.

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5. The learned Additional Government Pleader appearing for the respondents filed a detailed counter affidavit and submitted that after the inspection on 16.03.2016, a memo dated 03.05.2016 was passed against the petitioner stating that as Manager, he is responsible for the shortage of materials and directed to remit the same to the Government Account, failing which, it will be recovered from the salary of the petitioner. Since the petitioner not having taken any steps to clear the audit objections in respect of shortage of materials, the 1st respondent passed the impugned order to recover the amount from the salary of the petitioner after affording reasonable opportunity to the petitioner to submit his explanation. He further submitted that the petitioner submitted his representation only on 28.12.2018 before the 2nd second respondent and no direction was issued to stop the recovery from the salary of the petitioner. He further submitted that the petitioner has filed this writ petition after recovery of the amount from the salary, hence, prays to dismiss this writ petition.



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6. Based on the submissions made by the learned counsel on either side and on a careful perusal of the materials available on record, this Court not is inclined to interfere with the impugned order dated 20.09.2016 passed by the 1st respondent and the petitioner has approached this Court only after the recovery of the amount from the salary. Hence, this Writ Petition has no merits and the same is liable to be dismissed.

7. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Writ Miscellaneous Petition stands closed.

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Index : Yes / No
Speaking order / Non-speaking order

To

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Nagapattinam
2. The Director of Agriculture,
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VIVEK KUMAR SINGH, J.

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