



W.P.Nos.23047 to 23050 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.23047 to 23050 of 2018

1.E.Kumar	... Petitioner in W.P.No.23047 of 2018
2.M.Rani	... Petitioner in W.P.No.23048 of 2018
3.A.Pachaiammal	... Petitioner in W.P.No.23049 of 2018
4.A.C.Raghel	... Petitioner in W.P.No.23050 of 2018

Vs.

1.The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The Director,
Public Health and Preventive Medicine,
No.359, Anna Salai, DMS Compound,
Teynampet, Chennai – 600 006.

3.The Deputy Director,
Health Services,
Villupuram District,
Villupuram.

4.The Block Medical Officer,
Government Primary Health Centre,
Valathi Post, Melmalaiyanur Taluk,
Villupuram District.



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5. The Treasury Officer,
Office of Gingee Treasury Office,
Gingee, Villupuram District.

6. I. Selvakumaran,
Assistant (under Suspension),
Government Primary Health Centre,
Valathi Post,
Melmalaiyanur Taluk,
Villupuram District

... Respondents in all W.Ps

Prayer in W.P.No.23047 of 2018: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to sanction and disburse the GPF Temporary Advance amount of Rs.1,16,400/- (Rupee One Lakh Sixteen Thousand Four Hundred only) to the petitioner along with interest within a stipulated time, and consequently direct the respondents 1 to 4 to take necessary steps to recover the said misappropriated amount of Rs.1,16,400/- from the 6th respondent.

Prayer in W.P.No.23048 of 2018: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to sanction and disburse the GPF Temporary Advance amount of Rs.3,05,600/- (Rupees Three Lakh Five Thousand and Six Hundred only) to the petitioner along with interest within a stipulated time, and consequently direct the respondents 1 to 4 to take necessary steps to recover the said misappropriated amount of Rs.3,05,600/- from the 6th respondent.



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Prayer in W.P.No.23049 of 2018: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to sanction and disburse the GPF Temporary Advance amount of Rs.86,100/- (Rupees Eighty Six Thousand and One Hundred only) to the petitioner along with interest within a stipulated time, and consequently direct the respondents 1 to 4 to take necessary steps to recover the said misappropriated amount of Rs.86,100/- from the 6th respondent.

Prayer in W.P.No.23050 of 2018: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to sanction and disburse the GPF Temporary Advance amount of Rs.1,05,350/- (Rupees One Lakh Five Thousand and Three Hundred and Fifty only) to the petitioner along with interest within a stipulated time, and consequently direct the respondents 1 to 4 to take necessary steps to recover the said misappropriated amount of Rs.1,05,350/- from the 6th respondent.

For Petitioners : Mr.K.Balu
(in all W.Ps)

For Respondents : Mr.E.Sundaram
(in all W.Ps) Government Advocate
for R1 to R5

COMMON ORDER

All the petitioners in these batch of writ petitions while working as Driver, Pharmacist, Village Health Nurse and Village Health Nurse respectively,



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in Family Welfare Department made a request for grant of GPF temporary advance and accordingly they were granted GPF temporary advance of Rs.1,16,400/-, Rs.3,05,600/-, Rs.86,100/- and Rs.1,05,350/- respectively and the said amounts are supposed to be credited to their respective bank accounts of the petitioners by way of Electronic Clearance Service (ECS) mode. However, the said amounts were not credited to the respective accounts and accordingly the petitioners brought the same to the notice of the respondents 1 to 4. Thereafter it was realized that the said amounts which are supposed to be credited to the bank accounts of the petitioners was misappropriated by the respondent no.5 in collusion with the respondent no.6 herein and accordingly the disciplinary proceedings were initiated against the respondents 5 and 6.

2. Though the respondents 2 to 4 have realized that the amounts for which the petitioners are entitled, were not credited to their respective bank accounts and misappropriated by the respondents 5 and 6, the said amounts were not paid to the petitioners.



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WEB COPY 3. Aggrieved by the said action of the respondents the petitioners approached this Court seeking writ of mandamus to direct the respondents 1 to 4 to disburse their respective GPF temporary advance amount to their respective bank accounts.

4. The second respondent had filed a counter affidavit admitting the facts that the respective amounts being claimed by the petitioners were sanctioned in favour of the petitioners towards GPF temporary advance amount, but the said amounts were not credited to their respective accounts and also admitted about the misappropriation of the said amounts by the respondents 5 and 6. It is further stated that, appropriate disciplinary proceedings under 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules was initiated against the respondents 5 and 6 and other officials and on recovery of misappropriated amounts from the respondents 5 and 6, the said amounts will be disbursed to the respective accounts of the petitioners.

5. During the course of hearing, it is also brought to the notice of this Court that, without disbursing any amount in favour of the petitioners, the



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recovery of said amounts started from the petitioners towards the recovery of advance from the petitioner in W.P.No.23047 of 2018.

6. In the light of the admitted fact situation that the petitioners were granted GPF temporary advance amount, but not paid the said amounts for all these years, this Court does not find any justification on the part of the respondents 1 to 4 to contend that the amounts will be paid to the petitioners after recovering the same from respondents 5 and 6 who involved in misappropriation of funds. The GPF amount is the property acquired by the petitioners on rendering services and the said amount was also started to recover from the salary of the petitioner in W.P.No.23047 of 2018. Therefore, the negligence on the part of the officer concerned by allowing the respondents 5 and 6 to misappropriate the said amounts, cannot be put against the petitioners to deprive their right of property.

7. It is also brought to the notice of this Court two of the petitioners have already retired from service, but they were not paid the amounts which is the subject matter of the Writ Petitions. This Court does not see any justification and the stand of the respondents initiating disciplinary proceedings against the



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persons responsible for misappropriation cannot be accepted as a defense for non-payment of GPF advance amounts as claimed by the petitioners in these Writ Petitions.

8. In the light of the above, these Writ Petitions are allowed by directing the respondents 1 to 4 to forthwith take steps to release the amounts granted in favour of the petitioners towards GPF temporary advance amount together with interest at the rate of 7.5% from the date of sanction till the date of payment. Further, the respondents 1 to 4 are directed to pay the said amounts as expeditiously as possible at any rate within a period of six weeks from the date of receipt of a copy of this order. However, it is open for the respondents 1 to 4 to recover any such misappropriated amounts from the respondents 5 and 6 in accordance with law. No costs.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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