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W.P.No.15432 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.15432 of 2024
and WMP.Nos.16783 to 16785 of 2024

B. Raju

... Petitioner

Vs

1. Agriculture Production Commissioner and Principal
Secretary to Government of Tamil Nadu, Agriculture
and Farmers Welfare Department,
Fort St.George,
Chennai 600 009.

2. The Director of Horticulture
Chepauk,
Chennai 600 005.

3. Joint Director of Horticulture
Uthagamandalam,
The Nilgiris District.

4. The Accountant General of Tamil Nadu
Teynampet,
Chennai 600 018.

Respondents

...



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the third respondent herein in his proceedings Se.Mu.Order No.A5/1267/2022 dated 27.12.2022 and the consequential order of recovery passed in Se.Mu.Order No.A5/13492/2022 dated 31.12.2022 and quash the same and consequently direct the respondents herein to allow the petitioner to retire from service as per the original pay fixation prior to the impugned orders and sanction and disburse the petitioner's retirement benefits and terminal benefits together with 12% compounding interest on the delayed payment of retirement benefits w.e.f 31.12.2022.

For Petitioner : M/s.G.Bala and Daisy

For Respondents : Mr.C.Jayaprakash
Government Advocate for R1 to R3
Mr.J.Sreevidhya for R4

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the third respondent herein in his proceedings Se.Mu.Order No.A5/1267/2022 dated 27.12.2022 and the consequential order of recovery



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passed in Se.Mu.Order No.A5/13492/2022 dated 31.12.2022 and quash the same and consequently direct the respondents herein to allow the petitioner to retire from service as per the original pay fixation prior to the impugned orders and sanction and disburse the petitioner's retirement benefits and terminal benefits together with 12% compound interest on the delayed payment of retirement benefits w.e.f 31.12.2022.

2. The learned counsel for the petitioner submitted that the petitioner has challenged the impugned order dated 27.12.2022 passed by the third respondent wherein based on audit objection, the petitioner's pay has been refixed and excess amount was ordered to be recovered from the Gratuity amount. He further submitted that firstly, the pay has been rightly fixed in respect of the petitioner and without providing any opportunity to the petitioner, straight away impugned order has been passed. Secondly, in any event excess amount cannot be ordered to be recovered.

3. Even though, the writ petition came up for admission,



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Mr.C.Jayaprakash, learned Government Advocate who takes notice on behalf of the respondents 1 to 3 submitted that no show cause notice has been issued to the petitioner.

4. It can be verified from the references in the impugned order itself that the respondents had not provided any opportunity to the petitioner by way of show cause notice before passing the impugned order. As the impugned order visits the petitioner with civil consequences, the same can be passed only after affording an opportunity to the petitioner and after considering the objection that may be raised by the petitioner objectively. In view thereof, this writ petition is disposed of on the following terms:-

(i) The impugned proceedings Se.Mu.Order No.A5/1267/2022 dated 27.12.2022 and the consequential order of recovery passed in Se.Mu.Order No.A5/13492/2022 dated 31.12.2022 shall stand quashed;

(ii) However, the respondents are at liberty to carry out the said exercise afresh by issuing a show cause notice to the petitioner and also by affording an opportunity of personal hearing and pass a fresh order



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thereafter. The petitioner will be at liberty to raise his objections both including fixation as well as recovery of the amount and the respondents shall consider the same on its own merits and in accordance with law;

(iii) If the respondents choose to initiate the proceedings afresh then the same shall be initiated expeditiously in any event within four weeks from the date of receipt of a copy of this order and shall complete within a period of six weeks thereafter. No costs. Consequently, connected miscellaneous petitions are also closed.

13.06.2024

Neutral Citation : yes/no
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To

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D. BHARATHA CHAKRAVARTHY, J.

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