



WEB COPY



W.P.No.34779 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2024

CORAM

THE HONOURABLE MR.JUSTICE **BATTU DEVANAND**

W.P.No.34778 of 2019 &
W.M.P.No.35533 of 2019

R.Mayilvaganan

...Petitioner

Vs

1. The Secretary to Government,
Home Department,
Fort St., George,
Chennai – 600 009

2. Director General of Police,
Dr.Radha Krishnan Salai,
Mylapore, Chennai – 600 004

3. Superintendent of Police,
Ariyalur District,
Ariyalur

4. Superintendent of Police,
Thanjavur District,
Thanjavur

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus after calling for the records of the 3rd respondent pertaining to his proceedings in Na.Ka.No.A2/14493/2018 and quash the order dated 18.07.2019 and consequently direct the respondents to repay the amount recovered from the salary of the petitioner along an interest at the rate of 12% and pass orders.



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For Petitioner : Mr.R.Sivakumar

For Respondents : Mr.Ammedius
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the materials available on record.

2. This Writ Petition has been filed challenging the order of the 3rd respondent dated 18.07.2019 whereby orders were issued to recover the amount of Rs.77,284/- from the salary of the petitioner in hundred equal monthly instalments at the rate of Rs.780/- per month.

3. In the affidavit filed along with the Writ Petition, the petitioner has raised several grounds against the impugned order. However, during the course of hearing today, the learned counsel for the petitioner submits that the order impugned in this Writ Petition has been withdrawn by the respondents by order dated 18.11.2023 and he has attached a copy of the order dated 18.11.2023 issued by the 3rd respondent in the Typed Set of Papers-I. In view of the order passed by the 3rd respondent dated



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18.11.2023, the learned counsel for the petitioner would submit that after issuing impugned order and before granting Stay by this Court in the Writ Petition, the respondents have recovered the amount of Rs.780/- per month for a period of five months and it has to be refunded to the petitioner, as there is no recovery order against the petitioner at present.

4. The learned counsel for the petitioner further submit that the petitioner approached Madurai Bench of Madras High Court by filing Writ Petition in W.P.(MD) No.1378 of 2020 seeking a direction to the respondents to post him as Junior Assistant as per orders of the 2nd respondent dated 22.09.2019. While disposing of the said Writ Petition, a learned Single Judge of Madurai Bench taking into consideration of the fact that the present Writ Petition is pending before this Court reserved the rights of the petitioner to claim the post of Junior Assistant, if the petitioner succeed in the present Writ Petition.

5. In the light of the order dated 17.11.2021 in W.P.(MD) No.1378 of 2020, the learned counsel for the petitioner contends that the case of the petitioner has to be considered for appointment to the post of Junior Assistant.



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6. It is an admitted fact that the order impugned in this Writ Petition dated 18.07.2019, has been withdrawn by order dated 18.11.2023 by the respondents.

7. Considering the submission of the learned counsel for the petitioner that prior to granting of Interim Stay by this Court in the present Writ Petition, recovery was effected for a period of five months as per the impugned order dated 18.07.2019, in my considered opinion, the petitioner is entitled for refund of amount deducted for the period of five months from the petitioner, prior to grant of Interim Stay by this Court.

8. Accordingly, this Writ Petition is allowed with the following directions.

In the light of the order dated 17.11.2021 in W.P.(MD)No.1378 of 2020, wherein the rights of the petitioner to claim the post of Junior Assistant has been reserved, if the petitioner succeeds in the present Writ Petition, in the considered opinion of this Court, the petitioner is, at present, entitled to claim the post of Junior assistant.



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Accordingly, the respondents shall appoint the petitioner as Junior Assistant forthwith.

For the aforesaid reasons, this Writ Petition is allowed.
Consequently, connected miscellaneous petition is closed. No costs.

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Index: Yes/No; Internet: Yes/No
Speaking order / non speaking order
ssd
To

1. The Secretary to Government,
Home Department,
Fort St., George, Chennai – 600 009
2. Director General of Police,
Dr.Radha Krishnan Salai,
Mylapore, Chennai – 600 004
3. Superintendent of Police,
Ariyalur District,
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4. Superintendent of Police,
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BATTU DEVANAND, J.,

ssd

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