



W.P(MD)No.9285 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.9285 of 2019

P.Brahmanakkanni

... Petitioner

Vs

- 1.The Director,
Adi Dravidar and Tribal Welfare Department,
Chennai-5.
 - 2.The District Adi Dravidar and Tribal Welfare Officer,
O/o.the District Adi Dravidar and Tribal Welfare Officer,
Nagercoil,
Kanyakumari District.
 - 3.The Special Tahsildar (ADW),
Padmanabhapuram,
Thuckalay Post,
Kanyakumari District.
 - 4.The Headmaster,
Government Adi Dravidar and Tribal Welfare
Higher Secondary School,
Kalaingarajapuram-629 154.
- ... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to refund the Death cum Retirement Gratuity to the tune of Rs.84,544/- along with suitable interest to the petitioner within the time period stipulated by this Court.

For Petitioner	: Mr.Karthick for M/s.Lajapathi Roy & Associates,
For Respondents	: Mr.G.V.Vairam Santhosh Additional Government Pleader

ORDER

The petitioner, a retired Matron has approached this Court for refund of a sum of Rs.84,544/- recovered from her Death cum Retirement Gratuity together with interest.

2.The petitioner was worked as a Secondary Grade Assistant and Matron in Government Adi Dravidar Welfare Hostels from 2001 to 2003 and retired on 30.04.2012. During internal audit, it was found that while the petitioner was working in Government Adi Dravidar Welfare Hostels from April 2001 to September 2003, a sum of



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Rs.84,544/- has been incurred as an excess expenditure in feeding charges, thereby, she has caused a loss to Government. The petitioner has admitted her liability and undertook to deduct the amount from DCRG on 10.10.2011 in a stamp paper. Therefore, a pension proposal was sent by the second respondent vide his proceedings in J1/26112/2011, dated 10.01.2012 that a sum of Rs.84,544/- would be deducted from the petitioner's eligible DCRG. Accordingly, a sum of Rs.84,544/- was recovered from DCRG in the month of May 2012. Challenging the same the petitioner has filed a writ petition in WP(MD) No.6537 of 2014, for refund of the amount, which was deducted from her DCRG and this Court, by order dated 16.04.2014 has disposed of that writ petition with a direction to the District Adi Dravidar and Tribal Welfare Officer, Nagercoil, Kanyakumari to consider and dispose of the petitioner's representation, dated 20.03.2014. Even after the order of this Court, the petitioner's request for refund of Rs.84,544/- has not been considered. Therefore, the petitioner has approached this Court.



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3.The learned counsel appearing for the petitioner submits that the respondents have deducted a sum of Rs.84,544/- from her retirement benefits, without any notice, valid reasons and even without conducting an enquiry. Therefore, a direction may be issued to the respondents to refund the amount to the petitioner.

4.The learned Additional Government Pleader appearing for the respondents admit that a sum of Rs.84,544/- has been deducted from the eligible DCRG, based on the audit objection raised as against this petitioner that this petitioner, while working as a Matron in Adi Dravidar Welfare Hostel from April 2001 to September 2003, he has incurred an expenditure in excess and thereby caused a loss to the Government. The first respondent in his letter No.E1/26066 of 2011 dated 13.12.2011 has intimated the objection of the internal audit and directed the petitioner to remit the amount. However, the petitioner has submitted an explanation and it was under consideration. While so, she was due to retire on 30.04.2012. At that time, this petitioner has given an undertaking letter that a sum of Rs.84,544/- can be deducted from



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her DCRG amount. Thereafter, this petitioner was allowed to retire and by a proceedings of the second respondent in J1/26112/2011, dated 10/1/2012, a sum of Rs. 84,544/- was also deducted from the petitioner's DCRG. The learned Additional Government Pleader by producing a copy of the undertaking letter executed by the petitioner submits that this petitioner has filed a writ petition before this Court in WP(MD) No. 6537 of 2014, seeking the very same relief of Mandamus for refund of the recovered amount of Rs. 84,544/- together with interest. This Court, by order dated 16.04.2014 has disposed of that writ petition with a direction to the respondents to consider the representation of this petitioner, dated 20.03.2014. According to the learned Additional Government Pleader, this issue was already addressed and it was also considered as directed by this Court in WP(MD) No.6537 of 2014 and the petitioner was informed that in view of the undertaking letter given by her, she is not entitled to claim a sum of Rs.84,544/- by a communication in J1/26112/2011, dated, 06.06.2014. Since this issue was already addressed and the petitioner was also informed that she is not entitled for refund of the amount, as



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per her undertaking letter, dated 10.10.2011, this writ petition is not maintainable and it is liable to be dismissed.

5.In reply, the learned counsel appearing for the petitioner submits that the respondents are not supposed to recover the amount based on an undertaking letter, which has been obtained forcibly. According to the learned counsel, the amount of DCRG has been recovered from the petitioner, without issuing any notice and without conducting any enquiry.

6.This Court considered the rival submissions made and also perused the materials placed on record.

7.The petitioner has filed this writ petition for a Mandamus that this petitioner is entitled for a sum of Rs.84,544/-, which has been deducted from her DCRG. Admittedly, this amount has been deducted based on an undertaking letter of this petitioner dated 22.08.2011. A copy of the undertaking is also placed before this Court. It appears that



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based on an audit objection that this petitioner has incurred an expenditure in excess in providing feeding charges, a notice was issued by the first respondent in his letter No. E1/26066/2011, dated 13/12/2011. The petitioner, in order to avoid an enquiry at that relevant point of time and to retire peacefully, has given an undertaking letter, based on which, she was allowed to retire on 30.04.2011. After retirement by having given an undertaking on 22.08.2011, this petitioner has filed a writ petition before this Court for the very same relief in WP(MD) No. 6537 of 2014 and the same was also disposed of by this Court, by order dated 16.04.2014, directing the respondents to consider and take a decision on the representation of this petitioner and a decision was also taken by the respondents on 06.06.2014 and it is claimed that it has also been communicated to the petitioner. The petitioner neither denied or stated anything about the earlier order of this Court in WP(MD) No.6537 of 2014. This petitioner without challenging the proceedings dated 06.06.2014, has once again filed this writ petition seeking a Mandamus for the very same relief.



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8.In view of the above, this Court is inclined to dismiss this writ petition with a cost, however, on the persuasion of the learned Counsel for the petitioner, this writ petition is dismissed without imposing any cost. No costs.

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NCC:Yes/No

Index:Yes

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