



W.P.(MD)No.7079 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2024

CORAM

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.7079 of 2017

and

W.M.P.(MD)No.5597 of 2017

J.Shankar

: Petitioner

Vs.

1.The President,

M.M.16, The Pudukkottai Urban

Cooperative Stores Ltd.,

T.S.No.3033 & 3034 "Amma Valagam",

East 2nd Street,

Pudukkottai – 622 001.

2.The Deputy Registrar of Cooperative Society,

Pudukkottai Region,

Integrated Cooperative Complex,

Kalyana Ramapuram,

Mariamman Kovil Arch,

Annavasal Road,

Pudukkottai.

: Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, to call for the records of the impugned order No.Nil dated 06.04.2017 passed by the first respondent and quash the same as illegal.

For Petitioner : Mr.Pozhilan
for M/s.C.Arul Vadivel Alias Sekar Associates
For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned order dated 06.04.2017, passed by the first respondent seeking recovery from the petitioner for the alleged excess payments made by the respondents to the petitioner.

2.The petitioner has claimed that being a Class – IV employee, the recovery proceedings initiated by the respondents is bad in law.

3.Learned Counsel for the petitioner drew the attention of this Court to the oft quoted decisions of the Hon'ble Supreme Court in the case of ***State of Punjab and others Vs. Rafiq Masih (White***



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Washer) reported in (2015) 4 SCC 334 and in the case of **Jagdish Prasad Singh Vs. State of Bihar and others reported in 2024 0 Supreme (SC) 649** and would submit that the Hon'ble Supreme Court has made it clear that recovery even in case of excess payments made in the past cannot be made from Class-IV employees. The same has also not been seriously disputed by the learned Special Government Pleader appearing for the respondents.

4.In view of the settled law that no recovery can be made from a Class-IV employee, the proceedings initiated by the respondents against the petitioner is bad in law and eventhough the petitioner has challenged only a notice, the consequential order to be passed by the respondent will be a recovery order passed against the petitioner which would amount to recovery of excess payments from a Class-IV employee, which is not permissible under law as per the decisions of the Hon'ble Supreme Court in the case of **State of Punjab and others Vs. Rafiq Masih (White Washer) reported in (2015) 4 SCC 334** and in the case of **Jagdish Prasad Singh Vs. State of Bihar and others reported in 2024 0 Supreme (SC) 649.**

5.In view of the settled law, the impugned order dated 06.04.2017, passed by the first respondent is hereby quashed.



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6.Accordingly, this writ petition is allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

28.08.2024

Index :Yes / No

Internet : Yes / No

NCC : Yes/No

MR



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ABDUL QUDDHOSE, J.

MR

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