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W.P.(MD) No.7642 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.7642 of 2017

and

W.M.P.(MD) Nos.5956 of 2017 & 535 of 2019

M.Mohamed Meerasha

... Petitioner

-VS-

- 1.The State of Tamil Nadu
rep.by its Principal Secretary
Finance Department
Fort St.George, Chennai-600 009
- 2.The State of Tamil Nadu
rep.by its Principal Secretary
Cooperation, Food and Consumer
Protection Department
Fort St.George, Chennai-600 009
- 3.The Registrar of Cooperative Societies
No.170, Periyar E.V.R.High Road
Kilpauk, Chennai
- 4.The Joint Registrar of Cooperative Societies
Dindigul Region, Dindigul



W.P.(MD) No.7642 of 2017

WEB COPY

5.The Deputy Registrar /
Personnel Officer
Office of the Joint Registrar of
Cooperative Societies
Dindigul

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records of the impugned order of the fifth respondent in Na.Ka.2594/2016/Pa.Tho dated 28.03.2017 issued to the petitioner pursuant to the impugned order of the third respondent in Rc. 19336/2016/OE2 dated 26.05.2016 insofar as the petitioner is concerned and quash the same as illegal.

For Petitioner : Mr.R.R.Kannan

For Respondents : Ms.D.Farjana Ghoushia
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order of the fifth respondent, dated 28.03.2017, and impugned order of the third respondent, dated 26.05.2016, on the ground of violation of principles of natural justice.



W.P.(MD) No.7642 of 2017

WEB COPY

2. According to the petitioner, the third respondent has sent the impugned communication dated 26.05.2016 to all the Regional Joint Registrars with regard to the revised instructions in the fixation of pay in respect of Selection Grade Junior Assistants, which is arbitrary, illegal and is also issued in violation of the principles of natural justice. It is further contended by the petitioner that pursuant to the impugned order of the third respondent, dated 26.05.2016, the fifth respondent has also erroneously issued the impugned order, dated 28.03.2017, refixing the pay of the petitioner arbitrarily and illegally.

3. A counter affidavit has been filed by the respondents 3 to 5 denying the contentions of the petitioner.

4. Admittedly, no recovery order has been issued to the petitioner by the respondents pursuant to the impugned orders.

5. Learned Special Government Pleader appearing for the respondents also contends that only due to the fact that an interim stay has



W.P.(MD) No.7642 of 2017

WEB COPY

been granted by this Court in this writ petition, recovery order is yet to be issued against the petitioner for recovery of the alleged excess payments.

6. Learned counsel for the petitioner would submit that if the petitioner is afforded with an opportunity to submit his explanation with regard to the alleged payments, he will do so and the respondents can thereafter by giving due consideration to the explanation pass final orders with regard to whether the respondents are entitled to recover the excess payments or not from the petitioner.

7. No prejudice will be caused to the respondents that too when as on date no recovery order has been issued for treating the impugned orders as a show cause notice issued to the petitioner to enable the petitioner to submit his explanation with regard to whether the respondents are entitled to recover the excess payments made by the respondents and a direction is issued to the respondents to consider the said explanation on merits and in accordance with law, within a time frame to be fixed by this Court.



W.P.(MD) No.7642 of 2017

WEB COPY

8. For the foregoing reasons, this writ petition is disposed of by treating the impugned orders as a show cause notice issued to the petitioner and by directing the petitioner to submit his explanation with regard to the impugned orders to the respondents within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said explanation, the fourth respondent shall pass final orders on merits and in accordance with law and decide as to whether the petitioner is liable to pay the alleged excess payments made to him as per the impugned orders, within a period of twelve weeks thereafter.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

21.10.2024

(1/2)

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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W.P.(MD) No.7642 of 2017

ABDUL QUDDHOSE, J.

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