



WP(MD)No.26677 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.26677 of 2019
and
WMP(MD)No.23001 of 2019**

A.Anish Fathima

... Petitioner

Vs

**1.The Joint Director of
Medical and Rural Health Services and
Family Welfare,
Virudhunagar, Virudhunagar District.**

**2.The Chief Civil Surgeon,
Medical Officer,
Government Hospital,
Aruppukottai,
Virudhunagar District.**

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records relating tot he impugned notice in Na.Ka.No.7338/NiBi/2019, dated 26.11.2019 issued by the 1st respondent and quash the same.

**For Petitioner : Mr.J.Anandha Kumar
for Mr.S.Manikandan**

**For Respondents : Mr.P.T.Thiraviyam
Government Advocate**



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ORDER

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This writ petition has been filed as against the show cause notice issued by the respondents calling for the petitioner to offer her explanation, as to why not the increment amount excessively paid to her be recovered.

2.The petitioner has already filed a writ petition in WP(MD)No.21082 of 2019 before this Court challenging the order of recovery that it was passed without issuing any notice to the petitioner. This Court by order dated 01.10.2019 allowed the writ petition and directed the respondents to issue show cause notice to the petitioner and to get her explanation and thereafter pass orders in accordance with law. Based on the orders of this Court, the present impugned show cause notice has been issued.

3.The learned Government Advocate appearing for the respondents submits that the present show cause notice has been issued pursuant to the orders of this Court dated 01.10.2019 passed in WP(MD)No.21082 of 2019.

4.This Court considered the rival submissions and perused the materials placed on record.



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5.The petitioner's pay was re-fixed as per the government order in GO(Ms)No.340 Finance (Pay Cell) Department, dated 26.08.2010. Subsequently vide letter of the Finance Department in Na.Ka.No.3421/ Finance/ 2019, dated 29.08.2019 it was informed that the petitioner is not entitled for fixation of pay as per the said government order in GO(Ms)No.340. Therefore based on the said letter, an order has been passed on 27.06.2019 for recovery of the excess amount paid to the petitioner. The petitioner has challenged the order of recovery before this Court that it has been passed without issuing any notice and this Court by a common order dated 01.10.2019 has disposed of the writ petitions in WP(MD)Nos. 21082 and 21084 of 2019 in the following terms:

“9.From the impugned order, it is seen that no notice was issued to the petitioners and the alleged excess amount was not mentioned in the impugned order. Further, it is stated that if any excess amount is paid, it is to be recovered. Therefore, the impugned order dated 27.06.2019, is vague and issued without notice to the petitioners.

10.For the above reasons, the impugned orders are liable to be quashed and are hereby quashed. However, it is open to the respondents to issue notice to the petitioners, furnishing the particulars of excess amount alleged to have been paid to them and after hearing the petitioners and



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considering their objections, if any, pass appropriate orders on merits and in accordance with law.”

6.Pursuant to the above order, the present show cause notice has been issued. Therefore, this Court is not inclined to interfere with the show cause notice, which has been issued in the year 2019 and is kept pending for the past five years. Therefore, the petitioner is directed to submit her reply, if any, to the impugned show cause notice within a period of four weeks from the date of receipt of a copy of this order and on receipt of the reply from the petitioner, the respondents shall take a decision within a period of six week therefrom.

7.In the result, this writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

10.12.2024

DSK



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To

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2. The Chief Civil Surgeon,
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B.PUGALENDHI.J.,

DSK

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