



WEB COPY

WP No. 30806 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-03-2025

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

WP No. 30806 of 2019

1. V.Sethuraman,
S/o.V.Venkatachalam, 7/4, Umayal
Lane, Chidambram, Cuddalore District
608 001.

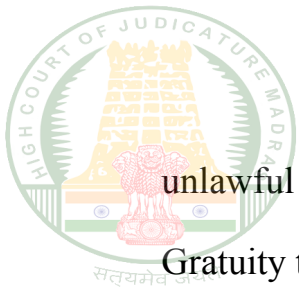
Petitioner(s)

Vs

1. The Assistant Director of Survey and
Land Records, District Survey Office,
New Collectorate, Cuddalore.

Respondent(s)

PRAYER: Writ petition is filed under Section 226 of the Constitution of India for issuance of a Writ of Certiorarified mandamus calling for the records pertaining to the impugned order of the respondent in Na.Ka.E.No2/3890/2019 dated 22/07/2019 and consequential proceedings of the respondent in Na.Ka.E.No.2/3890/2019 dated Nil.09/2019 quash the same as illegal and



unlawful and direct the respondent to disburse the death cum retirement Gratuity to the tune Rs.90,590/- more particularly within a time frame.

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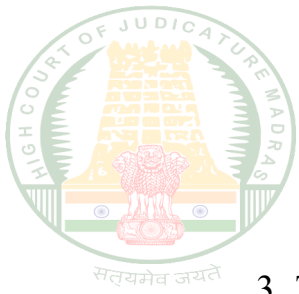
For Petitioner(s): Mr.J.Pooventhera Rajan

For Respondent(s): Mr.Stalin Abimanyu
Additional Government Pleader

ORDER

The writ petition has been filed challenging impugned order of the respondent in Na.Ka.E.No2/3890/2019 dated 22/07/2019 and consequential proceedings of the respondent in Na.Ka.E.No.2/3890/2019 dated Nil.09/2019 and direct the respondent to disburse the death cum retirement Gratuity to the tune Rs.90,590/-.

2. The petitioner was appointed as Khadi Assistant Grade III in Tamil Nadu Khadi and Village Industries Board. As Khadi had incurred loss, 378 staffs were considered as excess staffs and they proposed to be absorbed in other Government, public sector corporation and autonomous bodies. The Government of Tamil Nadu issued a Government Order in G.O.Ms.No.154 (Handloom, handicrafts, Textiles and Khadi (F2) Department) dated 21.11.2019, framing guideline for absorption of the excess staff in Khadi Board in the other government departments. The petitioner got absorbed in the respondent department and appointed as Office Assistant and retired from service on 31.05.2018 on his attaining the age of superannuation.

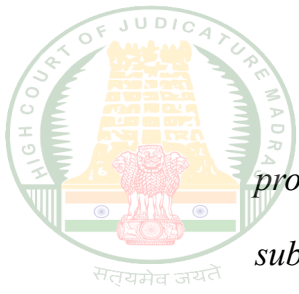


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3. The petitioner was granted with the selection grade on his completion of 10 years as Assistant Grade III. He was also given with the special grade pay on his completion of 20 years by taking into account of his earlier services rendered in Khadi Board. While so, the Government has issued an order dated 19.12.2017 directing all the Head of Departments to treat the grant of special grade / selection grade given to the employees of Khadi Board who have been absorbed in Government Departments, as illegal. Aggrieved by the same the petitioner has filed a writ petition in W.P.No.15225/2018 and the same was allowed with a direction to pass orders after giving show cause notice to the petitioner and hearing their submission. In pursuant to that, show cause notice was given to the petitioner and after hearing his objection, the impugned order has been passed by rejecting the petitioner's explanation and issuing an order of recovery of a sum of Rs.90,590/- representing the excess payment made between the period from 29.11.2013 to 31.05.2018.

4. On a similar issue raised in an earlier writ petition filed in W.P.No.1122 of 2020 and batch, this Court has observed as under:

“7.The Petitioners make their claim by having grip only on G.O.(Ms)No.152 (Handloom, handicrafts, Textiles and Khadi (F1) Department) dated 12.07.2012. In the said G.O., the Government has dealt about the impact of G.O.(Ms)No.154 (Handloom, handicrafts, Textiles and Khadi (F2) Department) dated 21.11.2009, in which pay



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protection has been given and service protection was denied. In the subsequent G.O.(Ms)No.152 (Handloom, handicrafts, Textiles and Khadi (F1) Department) dated 12.07.2012, the above denial was considered in view of various representations made by various associations and service protection has also been extended.

8.Mr.Haja Nazrudeen, learned Additional Advocate General-I submitted that the Petitioners cannot presume service protection benefits under G.O.(Ms)No.152 (Handloom, handicrafts, Textiles and Khadi (F1) Department) dated 12.07.2012, and such an understanding is beyond the scope of the G.O. According to the submission made by the Government Respondent, the service protection would only mean that those services which were rendered by the Petitioners and like others in Khadi Board are countable for the purpose of computing the eligible services for the purpose of pension and not for any other benefits.

9.Had the Government was consciously restricted the service protection only in respect of pensionary benefits and for counting past services with regard to eligible number of years of services, the G.O.(Ms)No.152 (Handloom, handicrafts, Textiles and Khadi (F1) Department) dated 12.07.2012 could not have employed the word service protection. When there is explicit mention that the G.O. has been issued just to give service protection also for the employees, it goes without saying that service protection would include all other benefits which is known to government service.”



5. On the above observations it has been concluded in the said writ petition as under:

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“ 16. No doubt, the Petitioner who are working as Junior Assistants would fall under Class IV employees and some of them had retired from service and the recovery is sought to be made after five years. So the conditions (i) to (iii) are squarely applicable to facts of the case. However, in the case on hand, it is not excess payment but the payment due to be paid to the Petitioners, and hence it cannot even be considered as excess payment and hence no need to give the concession.

17. Because there is a conceivable difference between concession and entitlement. The 'entitlement' represents a right which can be exercised or claimed and the concession is a relaxation or liberty given by someone at his discretion, and hence the receiver cannot have any control or claim over concession. What is being enjoyed by the Petitioners are only entitlement derived from G.O.(Ms)No.152 (Handloom, handicrafts, Textiles and Khadi (F1) Department) dated 12.07.2012. Hence the impugned order issued for recovery of the payment already made and to stop making further payment is due to misinterpretation and misunderstanding of the scope of the above Government Order.

18. In view of the above stated reasons, the impugned orders in the respect Writ Petitions are set aside and these Writ Petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.”



6. Since the petitioners are also similarly placed and they are also entitled to get pay protection and service protection as per the Government Orders issued in this regard, the petitioner is also entitled to get the same relief.

7. Accordingly, the Writ Petition is allowed and the order passed by the respondent in Na.Ka.E.No2/3890/2019 dated 22/07/2019 and consequential proceedings of the respondent in Na.Ka.E.No.2/3890/2019 dated Nil.09/2019, are hereby quashed and the respondent is directed to disburse the death cum retirement Gratuity to the tune Rs.90,590/- to the petitioner, within a period of three weeks from the date of receipt of a copy of this order. No costs.

07-03-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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WEB COPY To

1. The Assistant Director of Survey and
Land Records, District Survey Office,
New Collectorate, Cuddalore.



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R.N.MANJULA J.

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