

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JANUARY
TWO THOUSAND AND NINE

PRESENT
THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.3447 of 2001
AND
WRIT PETITION No.3557 of 2001

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In WRIT PETITION NO : 3447 of 2001

Between:

M.Rajeswaramma W/o.B.Venkateswarlu
R/o.3-1076 , Kummari Street, Nawabpet , Nellore,
Nellore District.

..... PETITIONER

AND

- 1 The Regional Director, National Savings,
C.Block , 2nd floor , Koti, Kendriya Sadan , Hyderabad.
- 2 The Spacial Tahsildar,
National Savings, Golden Jubilee Bhavan, O/o. District Collectorate ,
Nellore,
Nellore District.
- 3 The Postmaster General
Vijayawada Region , Vijayawada, Krishna District.
- 4 The Senior Superintendent of Post Offices
Nellore Division , Nellore, Nellore District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ , order or direction , particularly one in the nature of Writ of Mandamus , declaring the action of the 4th respondent in directing the Respondnet 1 and 2 in with-holding of additinal incentive/ Commission bills payable to the SAS/MPKBY Agents , is arbitrary Unreasonable and without Jurisdiction and accordingly set-aside the letter of the 4th respondent No.L/RD Data Entry , Nellore Dt: 10-7-2000 in so far as the petitioner is concerned and consequently direct the respondents 1 and 2 to release the respective incentive/ Commission due to the petitioner for the Year 1999-2000 and 2000-2001 and pay the same immediately.

Counsel for the Petitioner : MR. I.GOPAL REDDY

Counsel for the Respondents :

In WRIT PETITION NO : 3557 of 2001

Between:

M.Rajeswaramma W/o. B.Venkateswarlu
R/o. 3-1076 , Kummari Street , Nawabpet , Nellore Nellore District.

..... PETITIONER

AND

- 1 The Special Tahsildhar
National saving , Golden Jubilee Bhavan O/o. Dist Collectorate ,
Nellore
Nellore District.
- 2 The Regional Director
National Saving , C Block 2nd Floor , Koti
Kendriya Sadan , Hyderabad.
- 3 The Post Master General
Vijayawada region , Vijayawada Krishna District.
- 4 The Sr.Superintendent of Post Offices
Nellore Division , Nellore Nellore District.
- 5 Sri Chalapathi
O/o. The Postmaster General , Vijayawada region Vijayawada.
- 6 G.Srinivas Murthy
C/o.Post Master , Head post Office Nellore
- 7 Bala Penchaiah
C/o. Postmaster , Nellore Head Post Office Nellore , Nellore District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ , order or direction more particularly one in the nature of Writ of Mandamus , declaring the action of the Respondent 4 to 7 in threatening the petitioner to pay the amount of Rs.1 , 76,000/- towards , Missing Credits (as characterised by the 4th Respondent) in recurring Deposits , without there being any procedure and without following the norms prescribed under standardised Agency system is arbitrary , unreasonable and further direct the Respondent 4 to 7 to repay the amount of Rs.58,920/- paid by the petitioner immediately and consequently direct the Respondent 1 and 2 to conduct an enquiry as per clause 29 Standardised Agency System by giving reasonable opportunity to the petitioner.

Counsel for the Petitioner : MR. I.GOPAL REDDY

Counsel for the Respondents :

The Court made the following common order:

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.3447 of 2001

AND

WRIT PETITION No.3557 of 2001

COMMON ORDER :

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Since the parties to the writ petitions are common and both the writ petitions are based on the same set of facts, these two writ petitions are heard together and decided by this common order.

The petitioner was appointed as a N.S.C. Agent in Nellore Town by the Special Tahsildar, National Savings. Aggrieved by the order of the Senior Superintendent of Post Offices, Nellore Division, Nellore, dated 15.09.2000 directing the Special Tahsildar National Savings, not to accept any business from the petitioner, the petitioner earlier filed W.P.No.19724 of 2000. The said writ petition was disposed of by this Court by order dated 01.12.2000 with a direction to the appointing authority - Special Tahsildar, National Savings - to conduct enquiry regarding the allegations levelled against the petitioner and pass appropriate orders within a period of three months. As against the said order, the petitioner preferred W.A.No.1633 of 2000. A Division Bench of this Court by judgment dated 12.12.2000 allowed the said Writ Appeal thereby setting aside the order in the writ petition and directing the Special Tahsildar, National Savings, to pass appropriate orders upon applying his mind on the material available on record without being influenced by the directions issued by the Senior Superintendent of Post Offices. Subsequently, the Senior Superintendent of Post Offices, by order dated 11.01.2001 cancelled his earlier order dated 15.09.2000. However, the petitioner was not paid the commission/incentive to which she is entitled to from the month of July, 1999 onwards.

Aggrieved by the said action, W.P.No.3447 of 2001 has been filed seeking a declaration that the action of the respondents in withholding the incentive/commission payable to the petitioner is arbitrary and illegal.

Alleging that the respondents have been taking coercive steps for

recovery of a sum of Rs.1,76,660/- allegedly due from the petitioner towards missing credits in recurring deposits, the petitioner filed W.P.No.3557 of 2001 to declare the said action of the respondents as arbitrary and illegal.

In W.P.No.3447 of 2001, a counter-affidavit has been filed by the Regional Director, National Savings, stating that the Senior Superintendent of Post Offices by letter dated 6.11.2000 informed that he had noticed some non-credits of deposits operated through about 51 Mahila Pradhan Kshetriya Bachat Yojana Agents at Nellore Head Post Office and requesting to stop payment of commission to them. The petitioner's name is also included in the said list at Sl.No.4. Subsequently, by orders dated 12.08.2000 and 15.11.2000 the Senior Superintendent of Post Offices, Nellore, requested to cancel the agencies of 18 agents of Nellore Head Post Office as they had involved in non-credits of deposits. Accordingly, the payment of commission to the said agents including the writ petitioner was stopped and they were also called upon to explain as to why action should not be initiated against them for non-crediting the amounts of PORD accounts and also for misappropriation of the investors money. The said enquiry was concluded and a report was submitted on 30.03.2001 stating that the 27 agents mentioned therein who are attached to Nellore Head Post Office failed to credit the deposits collected by them from depositors and therefore the said amounts may be deducted from the incentives due to be paid to them. The petitioner is also one of the agents against whom action was proposed in the said report. Pursuant thereto, the said agents including the petitioner were advised to remit the non-credited amounts in the Head Post Office, Nellore immediately and after remitting the same, the Demand Drafts/Cheques towards commission payment would be handed over to them. The demand draft in respect of the petitioner was also made ready. However, it was found that the amount required to be credited in the Head Post Office, Nellore by the petitioner was much more than the commission due to her. In the circumstances, the demand draft was not handed over to her.

A separate counter-affidavit has been filed by the Senior Superintendent of Post Offices, Nellore Division, stating that a sum of Rs.1,66,767-15 ps is required to be credited by the petitioner towards misappropriated Recurring Deposit amounts. In order to adjust the loss caused to the Department, by letter dated 10.07.2000 the Special Tahsildar, National Savings, was asked to stop release of incentive/commission due to her. Pursuant to the directions in W.A.No.1633 of 2000, dated 12.12.2000 necessary enquiry was conducted and it was found that the petitioner has credited the misappropriated amounts to the tune of Rs.1,66,767.15 ps and still the said amount has not been credited by her.

In W.P.No.3557 of 2001 a counter-affidavit has been filed by the Regional Director, National Savings Institute stating that the petitioner was appointed as Mahila Pradhan Kshetriya Yojana (MPKBY) Agent and the same was last renewed for a period of three years from 16.8.2001 to 16.8.2004. It is further stated that a police case was filed against the petitioner by the Department of Posts in I-Town P.S., Nellore in Cr.No.95/2001 under Sections 409 and 420 of I.P.C. on 3.3.2001 and steps are also being taken for recovery of the amounts after conducting due enquiry into fraudulent transactions adopted by the petitioner.

In the counter-affidavit filed by the Senior Superintendent of Post Offices, Nellore Division, it is stated that the petitioner had misappropriated a total sum of Rs.2,34,230/- and out of the said amount she had credited Rs.58,920/-. Since a sum of Rs.1,66,767-15 ps is still due to the Department, the matter has been referred to the Regional Director, National Savings, who is the appointing authority for recovery of the said amount.

I have heard the learned counsel for both the parties.

As could be seen from the counter-affidavits, the petitioner was found to have misappropriated a sum of Rs.2,34,230/-. The petitioner did not dispute her liability before any forum but on the other hand she remitted a sum of Rs.58,920/-.

The claim of the respondents 2 and 4 is that the commission/incentive payable to the petitioner is far less than the amount still due to the Department and nothing could be placed before this Court by the petitioner disputing the claim made by the respondents.

In the circumstances, the relief sought for in W.P.No.3447 of 2001 cannot be granted and the same is hereby dismissed.

So far as W.P.No.3557 of 2001 is concerned, though it is open to the respondents to recover the amounts due from the petitioner, the same can be done only through process known to law.

Accordingly, W.P.No.3447 of 2001 is dismissed and W.P.No.3557 of 2001 is disposed of with the above observation. No costs.

G. ROHINI, J

Dated: 30-01-2009
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