

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.25626 of 2015
and
M.P.Nos.1 and 2 of 2015

S.Devapalan

... Petitioner

Vs

1.The Commissioner,
Chennai City Municipal Corporation,
Ripon Building, Chennai - 3.

2.The Regional Deputy Commissioner
(Central), Chennai City Municipal
Corporation, 2nd Cross East,
Pulla Avenue, Shenoy Nagar,
Chennai - 30.

... Respondents

Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of certiorarified mandamus to call for the records relating to the impugned order of the second respondent issued in Ma.Va.A. Na.Ka.No.A6/1999/13 dated 06.04.2015 and quash the same and consequently direct the first respondent to sanction the pension, commutation of pension and DCRG within a reasonable period as may be fixed by this Court.

For Petitioner

... Mr.T.Ranganathan

For Respondents

.. Mr.S.Saravanan

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ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner was initially appointed as Surveyor in the services of Chennai City Municipal Corporation on 14.09.1978 and at the time of his retirement on 30.06.2013, he was working as Assistant

Executive Engineer. The grievance expressed by the petitioner is that though as per the resolution of the Corporation in Resolution No.174/2013 dated 23.07.2013, it has been noted that no amount is due and payable by the petitioner to the Corporation, the impugned order came to be passed on 06.04.2015 by the second respondent ordering recovery of Rs.29,45,316/-. Challenging the legality of the order, the petitioner came forward to file this writ petition.

3.Learned counsel appearing for the petitioner has drawn the attention of this Court to the above said resolution passed in the council meeting of the Corporation. As per the resolution passed in the said meeting, there is no amount due and payable by the petitioner to the Corporation and all of a sudden, without putting the petitioner on notice, the impugned order came to be passed, ordering recovery of huge amount and hence prays for appropriate orders.

4.Per contra, Mr.S.Saravanan, learned standing counsel, who accepts notice for the respondents, would submit that based on the audit objections only, the impugned order came to be passed.

5.This Court, upon hearing the rival submissions and on going through the materials, is of the view that the impugned order warrants interference. Even for the sake of arguments that in the light of the audit objections, the respondents are entitled to recover the amount from the terminal benefits of the petitioner, admittedly, the petitioner has not been put on notice and no opportunity whatsoever has been afforded to the petitioner before passing the impugned order. Hence on the sole ground, the impugned order warrants interference.

6.In the result, the writ petition is partly allowed. The order dated 06.04.2015 passed by the second respondent is set aside and the matter is once again remanded to the second respondent, who shall put the petitioner on notice, as to the recovery, within a period of two weeks from the date of receipt of a copy of this order. The petitioner, on receipt of the same, is directed to submit his explanation within a period of two weeks thereafter. The second respondent, on receipt of the same, is directed to consider the same on merits and in accordance with law and pass orders within a period of four weeks thereafter and communicate the decision taken, to the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

mmi

To

1.The Commissioner,
Chennai City Municipal Corporation,
Ripon Building, Chennai - 3.

2.The Regional Deputy Commissioner
(Central), Chennai City Municipal
Corporation, 2nd Cross East,
Pulla Avenue, Shenoy Nagar,
Chennai - 30.

1 cc to Mr..T.Ranganathan, Advocate Sr.No.43414

1 cc to Mr.S.Saravanan , Standing Counsel for Chennai
Corporation,Advocate Sr.No.43612

W.P.No.25626 of 2015

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pmk.3.9.2015



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