

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.32589 of 2015

C.Devan

.. Petitioner

Vs.

1 The Director of Local Fund  
Audit, Kuralagam,  
Chennai - 600 108

2 The Commissioner  
Tiruvottiyur Municipality,  
Tiruvottiyur,  
Chennai - 600 019.

.. Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the 1<sup>st</sup> respondent dt 11.7.2001 in Mu. Mu. No.30537/Na. O. Sa. (8)/2001 and the consequential letter dated 09.08.2001 in Na. Ka. No.5070/2001-C4 passed by 2nd respondent quash the same and direct the respondents to sanction pension based on the last drawn scale of pay with arrears from 31.5.2001 with 12% of interest compoundable annually till the date of payments.

For Petitioner : Mr.A.R.Nixon

For Respondents: Mr.N.Srinivasan  
Additional Government Pleader

O R D E R

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

2. The petitioner was in the services of Tiruvottiyur Municipality and he attained the age of superannuation on 31.05.2001. The Director of Local Fund Audit, Kuralagam, Chennai has sent a communication to the second respondent pointing out that the special pay of Rs.50/- paid to the petitioner from 01.08.1992 was a mistake with a further direction to do re-fixation and order recovery. The Executive Officer of Tiruvottiyur Municipality in turn sent a communication to the Directorate of Local Fund Audit stating that a sum of Rs.21,777/- has already been recovered from the petitioner and remitted to his account.

3. The grievance expressed by the petitioner is that before passing the said order, he has not been afforded with any opportunity whatsoever and hence, came forward to file this writ petition.

4. The learned counsel appearing for the petitioner would submit that admittedly before effecting the recovery, the petitioner was not at all put on notice and on account of the recovery, he being the pensioner is put to hardship and suffering and prays for appropriate orders.

5. Per contra, Mr.N.Srinivasan, learned Additional Government Pleader who accepts notice on behalf of the respondents would submit that the petitioner is guilty of delay and latches for the reason that the impugned order of recovery came to be passed on 09.08.2001 and nearly after 14 years, the petitioner has come forward to file this writ petition and prays for dismissal of the writ petition. He would further submit that the Tiruvottiyur Municipality now comes under the jurisdiction of the Corporation of Chennai.

6. This Court heard the rival submissions and also perused the materials placed before it.

7. Though the petitioner prayed for the larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner in this writ petition, permits the petitioner to submit a representation to the first respondent as well as to the Commissioner, Corporation of Chennai praying for refund of the amount recovered and the other relief if any, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent as well as the Commissioner, Corporation of Chennai are directed to consider the same on merits and in accordance with law and pass orders within a period of ten weeks thereafter and communicate the decision taken, to the petitioner.

8. The writ petition is disposed of accordingly. No costs.  
Pri

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub-Assistant Registrar

To

- 1 The Director of Local Fund  
Audit, Kuralagam,  
Chennai - 600 108
- 2 The Commissioner  
Tiruvottiyur Municipality,  
Tiruvottiyur,  
Chennai - 600 019.
- 3 The Commissioner,  
Corporation of Chennai

W.P.No.32589 of 2015

MG(CO)  
sd : 28/10/2015



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