IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.Nos.35479 of 2016

S.Sekar ... Petitioner

Vs.

1. The Commissioner,
Panruti Municipality,
Panruti.

2. The Commissioner,
Municipal Administration,
Chepauk,
Chennai - 600 005. ... Respondents

Prayer :

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to issue a writ of mandamus directing the respondents to refund the amount of Rs.41,692/- paid as time barred arrears of taxes for the year 2004-2005 of Panruti Municipality under receipt No.1600823 dated 20.06.2016.

For Petitioner : Mr.M.S.Soundararajan,

For Respondents : Mr. P.V.Selvakumar,
for R1

: K.Dhananjayan, Spl. G.P.,
for R2

O R D E R

With the consent on both sides, the writ petition itself is taken up for final disposal.

2. The writ petition has been filed seeking Mandamus directing the respondents to refund the amount of Rs.41,692/- paid as time barred arrears of taxes for the year 2004-2005 of Panruti Municipality under receipt No.1600823 dated 20.06.2016.

3. It is the case of the petitioner that while the petitioner was working as Revenue Assistant (Bill Collector) at Panruti Municipality, a charge memo under Rule 8(2) was issued by the second respondent vide proceedings in Na.Ka.No.21725/-2015/C3 dated 14.07.2015 of Tamil Nadu Municipal Service Rules 1970 (disciplinary and Appeal), for certain irregularities alleged to have been committed while distributing the relief funds to the victims of Tane Cyclone along with others including persons of Revenue Department.

4. On 13.08.2015, the petitioner has given explanation to the 2nd respondent for the said charge. At the time of retirement, a letter in Na.Ka.No.299/2016/C1 dated 25.05.2016 was sent by the first respondent to the second respondent with regard to No Objection Certificate for allowing the petitioner to retire from service. Wherein, it has been stated that the petitioner has been served with chargememo and he is responsible for the loss of time barred arrears of taxes for the year 2004-2005 and a liability was fixed at 30%, which comes to Rs.41,692/-. A copy of the said letter has been served on him and he was informed that No Objection certificate will be issued for allowing him to retire from service on 30.06.20016, if he pays the time barred arrears of tax amount of Rs.41,692/-. Subsequently, the said amount was collected on 17.06.2016 and receipt was also issued in this regard. Inspite of the same, the petitioner was not allowed to retire from service. Thereafter, the petitioner was placed under suspension. Hence, the petitioner has come up with the present writ petition for refund the amount of Rs.41,692/- paid as time barred arrears of taxes for the year 2004-2005 of Panruti Municipality under receipt No.1600823 dated 20.06.2016.

5. The learned counsel for the petitioner submitted that in several cases it has been held that recovery of time barred arrears amount is illegal, arbitrary and not in accordance with law. If at all there is any negligence on the part of the petitioner in not collecting the arrears, the respondents can take only disciplinary action against such persons. The municipality is also empowered to recover the arrears amount by invoking distraint proceedings. Therefore, recovery of time barred arrears of Rs.41,692/- is illegal and arbitrary. Hence, he has sought for direction to the respondents to refund the said amount.

6. Considering the submissions made on either side, without going into the merits of the claim of the petitioner, this Court is not inclined to give any positive direction. However, this Court directs the petitioner to give a fresh representation to the first respondent within a period of two weeks from the date of receipt of a copy of this order, along with a copy of this order and on receipt of the same, the first respondent is directed to consider the same with regard to the

refund of Rs.41,692/-, which was paid as time barred arrears of taxes for the year 2004-2005 of Panruti Municipality under receipt No.1600823 dated 20.06.2016 and pass appropriate order on merits and in accordance with law within a period of four weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The Commissioner,
Panruti Municipality,
Panruti.

2. The Commissioner,
Municipal Administration,
Chepauk,
Chennai - 600 005.

+1 cc to Government Pleader,sr.61571

+1 cc to Mr.M.S.Soundararajan,advocate,sr.61248.

sai(co)
krd 25/11

W.P.Nos.35479 of 2016