IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.9298 of 2016 and
W.M.P. No.8291 of 2016

A.Udayasuriyan .. Petitioner

-vs-

1.The District Collector,
Tiruppur District, Tiruppur.

2.The Commissioner,
Vellakoil Panchayat Union,
Vellakoil 638 111, Tiruppur District.

3.The Assistant Director of Local Fund Audit,
Tiruppur. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records pertaining to the order dated 27.02.2014 bearing Na.Ka.No. 157/T/2014 of the third respondent and quash the same and further direct the respondents to refund a sum of Rs.40,237/- recovered from petitioner's salary.

For Petitioner : Mr.V.Suthakar

For respondents: Mr.S.Gunasekaran,
Additional Government Pleader
for R1 and R3

Mr.M.L.Mahendran,
Government Advocate for R2

O R D E R

This writ petition has been filed by the petitioner, with huge and un-explained delay of two years, challenging the order dated 27.02.2014 bearing Na.Ka.No. 157/T/2014 of the third respondent and directing the respondents to refund a sum of Rs.40,237/- recovered from petitioner's salary, without furnishing any reason to excuse the delay.

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2.Learned counsel appearing for the petitioner would submit that recovery order was passed against the petitioner as if excess payments were made while granting selection grade scale of pay in the post of Fitter Grade II from 01.06.1988 to the petitioner, is liable to be interfered with.

3.On an earlier occasion, based on the local fund audit, a sum of Rs.83,794/- was recovered from the petitioner towards the alleged excess payment of salary. Subsequently, another sum of Rs.40,237/- was also recovered on the ground of excess pay due to fixation of selection grade in Fitter Grade II from 01.06.1988. When a sum of Rs.1,24,031/- was already recovered from the petitioner's salary, the petitioner has not challenged the earlier order. Therefore, he cannot find fault with the respondents with regard to the recovery of the unpaid amount of Rs.2,82,616/- after a lapse of two years. Moreover, the original order was passed two years prior to his retirement. Yet another trick played by the petitioner shows that when he filed W.P. No.4468 of 2016 against the memo dated 01.02.2016 asking him to remit a sum of Rs.2,82,616/- on or before 05.02.2016, he has not mentioned anything about the old order of recovery of a sum of Rs.40,237/- and another sum of Rs.83,794/-. Therefore, the prayer of the petitioner is wholly misconceived and he is not entitled to get any relief. Since the petitioner has come to this Court after a lapse of two years, this Court is not inclined to entertain this petition, by invoking Article 226 of the Constitution of India to issue a writ of certiorarified mandamus, in favour of the petitioner, who is found to be guilty of laches. Accordingly, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected M.P. is also dismissed.

vga

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

To

1.The District Collector,
Tiruppur District, Tiruppur.

2.The Commissioner,
Vellakoil Panchayat Union,
Vellakoil 638 111, Tiruppur District.

3.The Assistant Director of Local Fund Audit,
Tiruppur.

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+ 1 cc to Mr.V.Suthakar, Advocate, SR 16220

+ 1 cc to M/s.M.L.Mahendran, Advocate, SR 16543

+ 1 cc to Govt.Pleader, High Court, Madras SR 16350

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