



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2017

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.16976 of 2015

P.L.Muthu

... Petitioner

-vs-

1. The District Collector,
Pudukkottai District,
Pudukkottai.
2. The Block Development Officer,
Panchayat Union, Annavasal,
Pudukkottai District.
3. The Commissioner,
Annavasal Panchayat Union,
Annavasal, Pudukkottai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.A4/100/2014 dated 28.07.2015, quash the same and consequently direct the respondents to pay the arrears of salary as per the order passed by the 3rd respondent in his proceedings Na.Ka.A1/5478/2013 dated 04.08.2014.

For Petitioner : M/s.P.Kalaiyarasi Bharathi

For Respondents : Mr.M.Rajarajan
Govt. Advocate

O R D E R

This writ petition has been filed, seeking to quash the impugned order dated 28.07.2015 passed by the 2nd respondent in Na.Ka.A4/100/2014, by which, the amount of Rs.2,48,065/- was ordered to be recovered from the petitioner in one instalment. The petitioner also sought a direction to the respondents to pay the arrears of salary as per the order passed by the 3rd respondent in his proceedings Na.Ka.A1/5478/2013 dated 04.08.2014.



2. Heard the learned counsel on either side.

3. Though several points have been urged by the petitioner in the affidavit filed in support of this petition to challenge the impugned order, the main ground canvassed by the petitioner is that the impugned order has been passed without giving an opportunity of hearing to the petitioner, thereby there is a violation of principles of natural justice and therefore, on that sole ground, the impugned order is liable to be set aside.

4. Since there is a dispute with regard to recovery of the amount, the petitioner should be given an opportunity and the principle of *audi alteram partem* should be applied, even if there are no positive words in the Statute requiring that the party should be heard, as principles of natural justice are in-built in quasi judicial proceedings.

5. Hence, finding force in the contention raised by the petitioner, this writ petition is allowed and the impugned order dated 28.07.2015 passed by the 2nd respondent is set aside. The matter is remitted to the authority concerned for fresh consideration and it is open to the said authority to pass orders afresh with regard to recovery, if so advised, after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of a copy of this order.

6. It is made clear that since the impugned order is set aside, any amount recovered shall be returned to the petitioner before the respondents pass further orders and thereafter, the respondents are at liberty to pass necessary orders of recovery, if the petitioner is found liable to pay the amount. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
Pudukkottai District,
Pudukkottai.

2. The Block Development Officer,
<https://hcservices.ecourts.gov.in/hcservices/>
Panchayat Union, Annavasal,
Pudukkottai District.



3. The Commissioner,
Annavaasal Panchayat Union,
Annavaasal, Pudukkottai District.

+1 cc to MR.P.KALAIYARASI BHARATHI, Advocate SR.No.5146

+1 cc to Special Government Pleader SR.No.5334

W.P. (MD) No.16976 of 2015
31.01.2017

SMA/MR/SAR-2/07.03.2017:3P/6C