



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2017

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.619 of 2017

S.Ramesh

... Petitioner

-vs-

1.THE STATE OF TAMIL NADU
REP. BY ITS SECRETARY TO GOVERNMENT,
RURAL DEVELOPMENT & PANCHAYATRAJ DEPARTMENT,
FORT ST.GEORGE, CHENNAI-09.

2.THE DIRECTOR,
RURAL DEVELOPMENT AND PANCHAYAT,
PANAGAL BUILDING, SAIDAPET,
CHENNAI-15.

3.THE DIRECTOR OF LOCAL FUND AUDIT,
4TH FLOOR, KURALAGAM,
CHENNAI-108.

4.THE DISTRICT COLLECTOR
TUTICORIN DISTRICT,
TUTICORIN.

5.THE BLOCK DEVELOPMENT OFFICER /
THE COMMISSIONER,
SRI VAIKUNDAM PANCHAYAT,
SRI VAIKUNDAM-628 601.
TUTICORIN DISTRICT.

... Respondents

Prayer: 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 order passed by the 5th respondent dated 23.12.2015 in his order no. A5/3959/14 and quash the same and to direct the respondents to continue to pay the increments to the petitioner and thus render justice.

For Petitioner : Mr.M.MD.Ibrahim Ali

For R1 to R4 : Mr.M.Rajarajan
Addl. Govt. Pleader

For R5 : Mr.C.Selvaraj

O R D E R

This petition has been filed, seeking to quash the impugned order dated 23.12.2015 passed by the 5th respondent in Order No.A5/3959/14, by which, it was decided to recover a sum of Rs.1,55,783/- from the salary of the petitioner. The petitioner also sought a direction to the respondents to continue to pay the increments to the petitioner

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 23.12.2015 passed by the 5th respondent is set aside. The matter is remitted to the 5th respondent for fresh consideration and it is open to the 5th respondent to pass orders afresh with regard to recovery, if so advised, after affording an opportunity of hearing to the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(A.S)

/True copy/

Sub Assistant Registrar

To:

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+1cc to Mr.M.MD.IBRAHIM ALI Advocate Sr.No.4600

+1cc to Mr.Spl Govt. Pleader, SR.No:4492

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AE/SV MMS/22.02.2017/3P/8C

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