

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 02.03.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE **S.M.SUBRAMANIAM****W.P. (MD) No.2025 of 2011****and****M.P (MD) No.1 of 2011**

K.Balusamy,
Village Administrative Officer,
Manickampatti,
Vadipatti Taluk,
Madurai District.

... Petitioner

-vs-

1. The State of Tamil Nadu,
represented by its Special Commissioner and
Secretary to Government,
Department of Rural Development and
Panchayat,
Chennai.
2. The District Collector,
Madurai District,
Madurai.
3. The Tahsildar,
Vadipatti Taluk,
Madurai Taluk.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records relating to the impugned order of recovery passed by the second respondent in his proceedings in Na.Ka.No.84991/2004-Oo.Va5, dated 15.07.2008 and the consequential order passed by the third respondent in his proceedings in Na.Ka.No.9527/2008/Aa1, dated 23.7.2008 and quash the same as illegal insofar as the Petitioner is concerned.

For Petitioner : Mr.M.E.Illango
for M/s.Ajmal Associates

For Respondents : Mr.R.Sethuraman
Special Government Pleader

**O R D E R**

The order of recovery, dated 15.7.2008 and the consequential order issued by the third respondent, dated 23.7.2008 are under challenge in this Writ Petition.

WEB COPY

2.The Writ Petitioner was appointed as Panchayat Clerk on 1.1.1991 and thereafter promoted to the post of Village Administrative Officer. On account of certain allegations in respect of the distribution of uniforms, there was certain irregularities and accordingly, quantum of loss to the State Exchequer was ascertained and thus the impugned order of recovery was issued.

3.The grievance of the petitioner is that no notice or opportunity was provided before issuing the impugned order of recovery.

4.The learned Special Government Pleader appearing for the respondents states that there was certain irregularities in respect of distribution of uniforms to the employees of the Panchayat and therefore the Writ Petitioner is liable to pay the loss caused to the respondents. The Writ Petitioner is liable for causing such loss to the respondents and therefore, there is no infirmity in the order of recovery.

5.However, this Court is of an opinion that any order passed affecting the right of an employee is to be issued only after providing an opportunity to the employee. In respect of the present impugned order, no notice or opportunity was provided to the employee. Thus the same is in violation of the principles of natural justice and therefore it is a fit case for remittance.

6.Accordingly, the impugned order passed by the second respondent in proceedings in Na.Ka.No.84991/2004-Oo.Va5, dated 15.07.2008 and the consequential order passed by the third respondent in his proceedings in Na.Ka.No.9527/2008/Aa1, dated 23.7.2008 are quashed and the matter is remitted back to the respondents for issuance of show-cause notice to the Petitioner and on receipt of explanation/objection from the Writ petitioner, a decision may be taken and an order may be passed on merits and in accordance with law, as early as possible.

7.Accordingly, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/



To

1. The Special Commissioner and
Secretary to Government,
Government of Tamil Nadu,
Department of Rural Development and
Panchayat,
Chennai.

2. The District Collector,
Madurai District,
Madurai.

3. The Tahsildar,
Vadipatti Taluk,
Madurai Taluk.

+ 1 cc TO M/S.Ajmal Associates , Advocate in SR No. 53129

+ 1 cc TO The Special Government Pleader in SR No. 52999

vsn

AE/GT/SAR2/13.03.2018/3P/6C

W.P. (MD) No.2025 of 2011
and
M.P (MD) No.1 of 2011
02.03.2018