



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.1589 of 2013

and

M.P. (MD) Nos.1 and 2 of 2013

D.Sooriyakumar

... Petitioner

Vs.

1.The Director of Town Panchayats,
Kuralagam Buildings 4th Floor,
Chennai - 600 108.

2.The District Collector,
Sivagangai District,
Sivagangai.

3.The Assistant Director of Town Panchayats,
Sivagangai, Sivagangai District.

4.The Executive Officer,
Selection Grade Town Panchayat,
Manamadurai - 630 606,
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the 4th respondent from any way effecting audit recovery from the petitioner's monthly salary in respect of any amount wrongfully paid to the petitioner's deceased father and consequently directing the 4th respondent to refund the amount which was wrongfully recovered as audit recovery from the petitioner's monthly salary w.e.f. October 2009 till date within the time that may be stipulated by this Court.

For Petitioner : Mr.K.Ponniah

For Respondents : Mr.M.Muthu

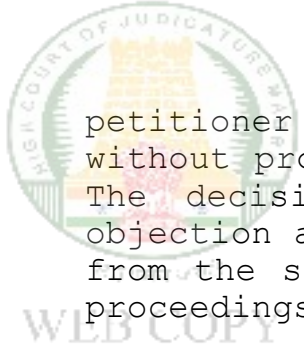
Additional Government Pleader

O R D E R

The relief sought for in this writ petition is for a direction to forbear the fourth respondent from any way effecting audit recovery from the petitioner's monthly salary in respect of any amount erroneously paid to the petitioner's deceased father and consequently direct the fourth respondent to refund the amount, which was wrongfully recovered with effect from October 2009.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The learned counsel appearing on behalf of the writ



petitioner states that the order of recovery impugned was issued without providing any notice or opportunity to the writ petitioner. The decision taken by the respondents was based on the audit objection and the recovery has been imposed directly to be deducted from the salary of the writ petitioner even without issuing proper proceedings.

3.The learned counsel for the writ petitioner states that the alleged audit report is in relation to certain lapses alleged to have been committed by the father of the writ petitioner, when he was employed as Working Inspector. Thus, there is no obligation on the part of the writ petitioner to repay the said loss alleged to have been occurred on account of certain lapses committed by his father.

4.The learned counsel for the writ petitioner further states that the Government issued orders on 07.04.1988 itself that such losses cannot be recovered.

5.In view of the Government orders no recovery can be imposed on the writ petitioner in respect of the alleged lapses committed by his father, who was a Government employee. There cannot be any liability in respect of the audit objection, due to the financial loss or lapses. This being the principles to be followed, this Court is of an opinion that the order of recovery is not in accordance with law and liable to be set aside. At the outset, no notice or opportunity was provided to the writ petitioner and even proceedings of recovery has

not been issued to the writ petitioner stating that recovery would be directly made from his monthly salary and accordingly, it was recovered from monthly salary of the writ petitioner without even providing any information to him.

6.This being the factum, the initiation of recovery by the fourth respondent is null and void. Accordingly, the respondents are directed to reimburse the recovered amount of Rs.27,336/-, within a period of twelve weeks from the date of receipt of a copy of this order.

7.Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/
Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1.The Director of Town Panchayats,
Ruralagam Buildings 4th Floor,
Chennai - 600 108.



2.The District Collector,
Sivagangai District,
Sivagangai.

3.The Assistant Director of Town Panchayats,
Sivagangai,
Sivagangai District.

4.The Executive Officer,
Selection Grade Town Panchayat,
Manamadurai - 630 606,
Sivagangai District.

+1cc to Mr.K.Ponniah, Advocate, SR.No.54755

+1cc to M/s.Special Government Pleader,SR.No.55117

W.P. (MD) No.1589 of 2013
13.03.2018

MM

KK/JC/17.04.2018/SAR-2/3P-7C