IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.09.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI
W.P.No.27449 of 2019
and W.M.P.No.26918 of 2019

1.A.Vikram
2.T.Ramadoss
3.M.Shanmugam
4.S.Vijayakumar
5.V.Kalaiselvi ..Petitioners

vs

The Commissioner
Tiruvannamalai Municipality
Tiruvannamalai. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records on the file of the respondent relating to the impugned order of the respondent bearing Na.Ka.No.Aa2/2016/2014 dated 26.07.2018 and quash the same.

For Petitioners : Mr.R.Arumugam
For Respondent : Mr.G.Rajesh for
Mr.V.Jayaprakash Narayanan
Government Pleader

O R D E R

Writ Petition is filed for issuance of a Writ of Certiorari calling for the records on the file of the respondent relating to the impugned order of the respondent bearing Na.Ka.No.Aa2/2016/2014 dated 26.07.2018 and quash the same.

2.Heard the learned counsel appearing for the petitioners and the learned Government Pleader appearing for the respondents. By consent, the writ petition is taken up for final disposal.

3.The petitioners 1 to 5 are now working in the respondent Municipality as Revenue Assistants and they entered service in the respondent Municipality on 18.03.2010, 24.11.2011, 17.03.1997, 21.09.2011 and 12.04.2013 respectively. Apart from the petitioners, two more Revenue Assistants were working in the respondent office. The respondent Municipality has 37 Wards. The petitioners submitted their daily diaries to the office and it could be seen that the details of collections of tax and arrears of tax. In the respondent Municipality in certain Wards, there were tax arrears from 1992-1993 to 2005-2006. The respondent conducted meeting on 25.05.2018 for collection of taxes. Thereafter, they issued notice dated 26.05.2018 to the petitioners enclosing tax arrears statement. On 30.06.2018, the respondent issued charge sheet to the 5th petitioner alleging that she failed to collect the arrears of taxes. She submitted her explanation denying the charges. But suddenly, on 26.07.2018, the respondent Municipality issued the impugned order directing recovery of the time barred arrears of tax from the petitioners' salary starting from August 2018. Further, the petitioners were directed to submit their objections within three days. Challenging the said impugned order, the petitioners have come out with the present writ petition.

4. Learned counsel for the petitioners submitted that though the respondent issued charge sheet on 30.06.2018, without conducting any proper enquiry and without identifying the persons who are responsible for collecting taxes, suddenly they issued impugned order on 26.07.2018, which is unsustainable and is in violation of principles of natural justice and further, fixing three days time for filing objections is not est in the eye of law. Therefore, he prayed for quashing the impugned order of the respondent.

5. Learned Government Pleader for the respondent submitted that this Court may extend the time limit for submitting explanation by the petitioners up to 15 days. Thereafter, the respondent Municipality will consider the explanation submitted by the petitioners and pass appropriate orders.

6. Considering the facts and circumstances of the case, the petitioners are working in the respondent Municipality as Revenue Assistants right from 1997 onwards. Though several other officers are in-charge for collecting taxes,

the respondent passed impugned order directing recovery of the time barred arrears of tax from the petitioners' salary by fixing responsibility against the petitioners alone that they have failed to collect taxes, without affording them an opportunity of hearing, is unsustainable. The petitioners are however ready to submit their explanation. Therefore, this Court hereby directs the petitioners to submit their explanation within fifteen days from the date of receipt of a copy of this order. On receipt of such explanation submitted by the petitioners, the respondent Municipality shall pass appropriate orders on merits and in accordance with law. Till such time, the respondent is directed to defer the recovery from the petitioners.

7. The writ petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The Commissioner
Tiruvannamalai Municipality
Tiruvannamalai.

+1cc to Mr.R.Arumugam , Advocate SR.No. 79987
+1cc to Mr.V.Jayaprakash Narayanan , Advocate SR.No. 79920

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A.SK(04/11/2019)