IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2020

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.16611 of 2007

(O.A.No.652 of 2003)

K.Radhakrishnan
Revenue Assistant,
Padmanabhapuram Municipality,
Padmanabhapuram,
Kanyakumari District, Kanyakumari. ... Petitioner

Vs.

1.The Commissioner of Municipal Administration,
Govt.of Tamil Nadu,
Ezhilagam,
Chennai - 600005.

2.Regional Director of Municipality,
Thirunelveli - 2.

3.The Commissioner,
Padmanabhapuram Municipality,
Padmanabhapuram. ... Respondents

PRAYER: Originally this application has been filed as Original Application No.652 of 2003 before the Tamil Nadu Administrative Tribunal at Chennai and after abolition of TNAT, application has been transferred and re-numbered as W.P.No.16611 of 2007.

Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the connected records pertaining to the issuance of the impugned order No.Na.Ka.1471/2001/C1 dated 11.01.2003 issued by 3rd respondent and quash the same only insofar as the recovery of amount from the salary of the applicant towards the lease/rent, as mentioned in the impugned order, consequently direct 3rd respondent to refund the amount already recovered from his salary.

For Petitioner : Mr.A.Stalin
No appearance

For Respondents: Mr.K.Magesh
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned order No.Na.Ka.1471/2001/C1 dated 11.01.2003 issued by the third respondent, quash the same insofar as the recovery of amount from the salary of the petitioner towards the lease/rent, as mentioned in the impugned order and consequently direct the third respondent to refund the amount already recovered from his salary.

2. The petitioner has filed Original Application in O.A.No.652 of 2003 before the Tamilnadu Administrative Tribunal, Chennai. Subsequently, due to abolition of Tribunal, the matter has been transferred before this Court and renumberd as W.P.No.16611 of 2007.

3. The petitioner was working as a Revenue Assistant. While, he was in service, a charge memo was issued on 16.05.2001 against the petitioner containing 4 articles of charges. On receiving the charge memo, the petitioner submitted his reply. Not being satisfied with the explanation given by the petitioner, the inquiry was conducted. The Enquiry Officer found all the charges to be proved and found him guilty. Thereafter, the petitioner was imposed with a penalty of withholding of increment for 5 years and further ordered recovery of Rs,1800/- per month from January 2003 to 31.03.2004. Challenging the said order, the petitioner has filed this writ petition before this Court which was originally filed as O.A.No.652 of 2003 before the State Administrative Tribunal.

4. Even after giving several opportunities to the petitioner, there is no representation on behalf of the petitioner.

5. Heard the learned Special Government Pleader appearing for the respondents.

6. Learned Special Government Pleader would submit that while the petitioner was working as Revenue Assistant in Kanyakumari District, a charge memo was issued against him. The petitioner in order to help one Gangatharan Nair, collected revenue tax, building tax, but actually, the Government could not collect the tax for any period after 01.10.1998. The entry in the Revision Register for assessment in hte name of V.Gangatharan Nair was cancelled from 01.10.1998, however the petitioner signed in the Revision Register and issued tax receipt. On the basis of the tax receipt issued by the petitioner, the Municipality could not vacate Gangatharan Nair from that Municipal land. Therefore, the Municipal Engineer and Commissioner Incharge has fixed the monthly rent of the land Rs.3172/- and passed orders of receovery of Rs.1800/- from the petitioner's salary Bill from the month of January 2003. As such, the recovery was due to the fact that the petitioner caused loss to the Government.

7. Admittedly, the petitioner was working as Revenue Assistant in Padmanabapuram Municipality. While so, the Commissioner, Pamanabhapuram Municipality, issued charge memo, thereafter, inquiry was conducted and the Enquiry Officer found that the charges leveled against the petitioner were proved and he was awarded with punishment of stoppage of increment for 5 years with cumulative effect and for the revenue loss caused to the Municipality to the tune of Rs.2,09,141/-, recovery ordered from his salary at the rate of Rs.1800/- per month. The petitioner though filed appeal against the punishment before the appellate authority, without waiting for consideration and the disposal by the appellate authority, he has filed the Original Application before the State Administrative Tribunal. Subsequently, due to abolition of the State Administrative Tribunal, the application was transferred to this Court and renumbered as writ petition in W.P.No.16611 of 2007.

8. On a perusal of the entire records, the nature of the allegations leveled against the petitioner and the inquiry conducted by the Enquiry Officer and the punishment awarded by the 3rd respondent, it is apparent that the petitioner committed serious irregularities by writing false accounts and issuing fraudulent revenue receipts and thereby caused pecuniary loss to the Padmanabapuram Municipality. In view of the conduct of the petitioner by collecting revenue tax and issuing revenue receipt to one Ganagadaran Nair to whom actually assessment is cancelled and the consequent filing of the civil suit, for the period from 01.02.2003 to 31.03.2004, pecuniary loss of Rs.52,352/- is caused and to make good for the loss, recovery was ordered. In the considered opinion of this court, the award of punishment viz., withholding increment with cumulative effect and the order of recovery is perfectly in order. This Court does not find any perversity in the order passed by the Disciplinary Authority and does not find any merit in the writ petition. The punishment imposed against the petitioner is not shockingly disproportionate. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.



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Assistant Registrar



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Sub Assistant Registrar

To

1.The Commissioner of Municipal
Administration, Govt.of Tamil Nadu,
Tamil Nadu, Ezhilagam,
Chennai - 600 005.

2.Regional Director of Municipality,
Thirunelveli - 2.

3.The Commissioner,
Padmanabhapuram Municipality,
Padmanabhapuram.

C.C.to MR.K.MAGESH, SPECIAL GOVERNMENT PLEADER , SR.NO. 37530
C.C. TO THE GOVERNMENT PLEADER, SR.NO.37777

W.P.No.16611 of 2007

SRA(CO)

RRI 21/01/2021