

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.NO.23128 OF 2005

AND

WMP.NO.25213 OF 2005

AND

WPMP NO.1370 OF 2008

E.Nanjundan

.. Petitioner

Vs.

1. The Government of Tamil Nadu
Rep by Secretary to Government
Municipal Administration and Water Supply Department
Fort St.George, Chennai - 600 009.

2. The Commissioner of Municipal Administration
Chepauk, Chennai - 600 005.

3. The Municipal Commissioner
Uthagamandalam, Nilgiris District.

.. Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent relating to his order in Na.Ka.No.C1.2828/05 dated 24.6.2005, quash the same and issue consequential directions to refund the amounts recovered, if any, to the petitioner.

For Petitioner : Mr.P.Kumaravel
for Mr.M.Ravi

For Respondent : Mr.K.Magesh
Special Government Pleader [R1 & R2]
Mr.P.Srinivas [R3]

O R D E R

The present writ petition is filed to quash the records of the third respondent relating to his order in Na.Ka.No.C1.2828/05 dated 24.6.2005, and to issue consequential

directions to them to refund the amounts recovered, if any, to the petitioner.

2. The case of the petitioner is that he was appointed as Steno-Typist in the Uthagamandalam Municipality on 28.4.1994 in the pay scale of Rs.1200-2040 and thereafter based on the recommendations of the VI Pay Commission, his pay scale was revised to 4000-6000 w.e.f. 01.1.1996. Subsequently, on the criteria of Selection Grade, he was advanced to the post of Steno-Typist Grade-III in the scale of pay 5000-8000, w.e.f. 27.05.2004. Be that as it may, the third respondent had issued the impugned order dated 24.06.2005, revising and reducing his pay from the date of his initial appointment and thereby directed to recover Rs.1,54,212/- in 200 instalments from his pay on the ground that excess pay was disbursed to him during the period 28.4.1994 to 31.5.2005. Aggrieved by the impugned order passed by the third respondent, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel for the third respondent.

4. The learned counsel for the petitioner would submit that no prior notice or an opportunity of hearing was given to the petitioner, before issuing the impugned order. He further submitted that the petitioner had not made any misrepresentations and got undue benefits out of it. He further reiterated that if such huge sum would be recovered from the petitioner, he would be put to grave hardship and mental agony. He has placed reliance on the judgment of Hon'ble Supreme Court in State of Punjab and Others Vs. Rafiq Masih (White Washer) and Others reported in [(2015) 4 SCC 334:].

5. This Court is of the opinion that as per the judgment of the Hon'ble Supreme Court in State of Punjab and Others Vs. Rafiq Masih (White Washer) and Others reported in [(2015) 4 SCC 334:], popularly known as "White Washer case" the Hon'ble Supreme Court has reiterated that in case of excessive payments have been mistakenly made by the employer, in excess of their entitlement, no recovery can be effected from the employees belonging to Class III and Class IV service (or Group C and Group D Service). Admittedly the petitioner is working as a Steno-Typist (Group "C" Service) in the Uthagamandalam Municipality and that the petitioner has not violated the conditions and availed the benefits fraudulently. In such circumstances, the impugned order passed by the third respondent directing to recover Rs.1,54,212/- in 200 instalments from the pay of the petitioner on the ground that excess pay was disbursed to him during the period 28.4.1994 to 31.5.2005, is

illegal and impermissible in law.

6. In the result, this Writ Petition is allowed and the impugned order passed by the third respondent order in Na.Ka.No.C1.2828/05 dated 24.6.2005, is set aside and the same is quashed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CJ Conf.)

//True Copy//

Sub Assistant Registrar

ds

To

1. The Secretary to Government,
The Government of Tamil Nadu,
Municipal Administration and Water Supply Department
Fort St.George, Chennai - 600 009.
2. The Commissioner of Municipal Administration
Chepauk, Chennai - 600 005.
3. The Municipal Commissioner
Uthagamandalam, Nilgiris District.

+1cc to the Government Pleader, S.R.No.39561

W.P.No.23128 of 2005

SR II (CO)
CS/18/01/2021

सत्यमेव जयते

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