



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2021

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.27311 of 2008
and M.P.No.2 of 2008

R.Venkatachalapathy

...Petitioner

Vs.

The Superintendent of Police,
Salem, Salem District.

...Respondent

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent impugned order bearing Na.Ka.No.R3/267/15274/2005, dated 21.06.2005, and quash the same and consequently direct the respondent to repay the amount, which was deducted from the salary of the petitioner.

For Petitioner : No appearance

For Respondent : Mr.C.Selvaraj,
Government Advocate

O R D E R

The Writ Petition is directed against the order of recovery imposed without notice for occupying the Government quarters.

2. The petitioner is working as a Police Constable and he was allotted to Police quarters. As he was frequently transferred to various places, he has retained the quarters from 1993 onwards. The respondent has not taken any action or issued directions or issued notice for vacating the Government quarters. The respondent for the first time issued proceedings in District Order No.716 of 2005 in Na.Ka.No.R3/267/15274/2005 dated 21.06.2005, for recovery of a sum of Rs.1,28,406/-. According to the petitioner, he was not put on notice before the order of recovery which is impugned in the Writ Petition. Secondly, as per the Government order and Government Letter, the persons who are working in the same District Headquarters are entitled to retain the same. Further, It is stated that as per



the G.O.Ms.No.375, dated 06.09.2000, the Police persons who are transferred within 60 kms from the City of Chennai and 30 kms in Districts are entitled to retain the quarters. The petitioner is presently working within 30 Km from his quarters. Therefore, according to the petitioner, he is entitled to retain the quarters. But, without considering all these points, the impugned recovery order has been passed. Further from the year 1993 onwards, he was not paid with House Rent Allowance, in view of retention of quarters. If that be so, the order passed by the respondent is smashed with non-application of mind. Above all, it is issued without notice.

3. In view of the above, this Court is of the opinion that the impugned order of recovery without notice is not sustainable. Therefore, I am inclined to set aside the impugned order in Proceedings Na.Ka.No.R3/267/15274/2005, dated 21.06.2005 and remit the matter back to the respondent. The respondent is directed to consider all these aspects, provide opportunity of hearing to the petitioner and pass appropriate orders. This Writ Petition is ordered accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vum

To

The Superintendent of Police,
Salem, Salem District.

+lcc to the Government Pleader, S.R.No.34953

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NSK 22/09/2021