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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.NO. 18595 OF 2010

AND

M.P.NO.1 OF 2010

E.Jayasingh Christopher

... Petitioner

/Vs/

1. The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.
2. The Assistant Director of Local Fund Audit
Kuralagam, 4th Floor,
Chennai - 600 0108.
3. The Commissioner,
Rasipuram Municipality,
Rasipuram, Namakkal District.

... Respondents

Prayer :

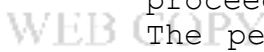
Writ petition filed under Article 226 of the Constitution of India praying Writ of Certiorari to call for the entire records relating to the proceedings of the second respondent in Na.Ka.No.5319/ NaOosa(2)/2010 dated 27.04.2010 and the consequential order of the third respondent in Na.Ka.No.3965/08/C1 dated 15.06.2010.

For Petitioner : Mr.S.Mani

For Respondents :Mr.Balathandayutham
Special Government Pleader

ORDER

This Writ petition is filed against the impugned order passed by the second respondent in Na.Ka.No.5319/NaOosa(2)/2010 seeking to recover a sum of Rs.72,272/-(Rupees Seventy Two Thousand Two Hundred and Seventy Two only) representing the



6.As rightly pointed out by the learned counsel appearing for the petitioner, there is no misrepresentation or fraud committed by the petitioner. The order of reversion came to be passed based on the understanding of the position which was then in existence relating to the petitioner's service. Therefore, in my view, the respondents are not justified in ordering recovery of the amount for the period from 31.08.2004 to 31.03.2006. Admittedly,



the petitioner had discharged his duties in the post of Malaria Mazdoor during the said period. Hence, the impugned order cannot be sustained."

4. It may be relevant to note that the above order of the learned Single Judge has attained finality, thus any attempt to recover any sum which constitutes part of Rs.1,13,979/- (Rupees One Lakh Thirteen Thousand Nine Hundred and Seventy Nine only) is clearly impermissible. However, the respondent has issued the impugned order seeking recovery a sum of Rs. 72,272/- (Rupees Seventy Two Thousand Two Hundred and Seventy Two only) representing the Retirement Benefits, Dearness Allowance and Medical Allowance. The impugned order overlooks the fact that the said sum component of Rs. 72,272/- (Rupees Seventy Two Thousand Two Hundred and Seventy Two only) also formed part of amount of Rs.1,13,979/- (Rupees One Lakh Thirteen Thousand Nine Hundred and Seventy Nine only), which was sought to be recovered earlier and which was held to be unsustainable by this Court in W.P.16225 of 2008.

5. In view of the above, the recovery of Rs.72,272 /- (Rupees Seventy Two Thousand Two Hundred and Seventy Two only) is clearly bad and illegal. The impugned order is set aside. In the event of recovery of the above sums of Rs.72,272/- (Rupees Seventy Two Thousand Two Hundred and Seventy Two only) having been made, the same shall be refunded by the respondent to the petitioner within a period of eight weeks from the date of receipt of the copy of this order.

6. Accordingly, the said writ petition is allowed. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

gba/mka

To

1. The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.
2. The Assistant Director of Local Fund Audit
Kuralagam, 4th Floor,
Chennai - 600 0108.



3. The Commissioner,
Rasipuram Municipality,
Rasipuram, Namakkal District.

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+1cc to the Government Pleader, S.R.No.64050

W.P.No.18595 of 2010

VBM(CO)
PM/16/12/2021