



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.8738 of 2021

I.Rahima

... Petitioner

vs.

1.The Secretary to Government,
Municipal Administration and Water
Supply Department,
Secretariat,
Chennai - 600 009.

2.The Director of Municipal Administration,
6th Floor Ezhilagam Annex Building,
Kamarajar Promenade,
PWD Estate, Chepauk,
Triplicane,
Chennai - 600 108.

3.The Commissioner of Municipality,
Theni Allinagaram Municipality,
Theni, Theni District.

4.The Director,
Local Fund Audit,
Kuralagam 4th Floor,
Chennai - 600 108.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to refund Rs.64,235/- recovered from the petitioner with interest at the rate of 12% per annum payable from 30.06.2011 within the time stipulated by this Court.

For Petitioner : Mr.A.Rahul

For RR 1, 2 & 4 : Ms.V.P.M.Vaishnavi
Government Advocate

For R - 3 : Mr.M.Karuppasamy
Standing Counsel



ORDER

This Writ Petition is filed seeking a Writ of Mandamus, directing the respondents to refund Rs.64,235/- recovered from the petitioner with interest at the rate of 12% per annum payable from 30.06.2011 within the time limit to be stipulated by this Court.

2.Ms.V.P.M.Vaishnavi, learned Government Advocate accepts notice on behalf of the respondents 1, 2 & 4 and Mr.M.Karuppasamy, learned Government Advocate accepts notice on behalf of the third respondent.

3.According to the petitioner, she was employed as Manager in the third respondent Municipality from 20.04.2006 to 11.02.2008 and thereafter, she was transferred to Dindigul Municipality with effect from 11.02.2008 and retired from service on 30.06.2011.

4.At the time of retirement, there was a pending Audit Objection bearing No.140 against the petitioner and three others, which pertains to loss of interest on Provident Fund amount to the tune of Rs.2,56,940/-. The then Commissioner allowed the petitioner to retire from service without any recovery even prior to her retirement and no recovery was made from the other employees also. However, the petitioner was compelled to remit a sum of Rs.64,235/- as security amount to the third respondent towards Audit Objection bearing No.140. Since the petitioner's terminal benefits including pension was withheld and her husband was taking treatment for cancer, which required huge amount, without prejudice to her right, she remitted the said amount to the third respondent Municipality under the head of "Audit Recovery". Subsequently, the above Audit Objection No.140 was deleted in the proceedings of the Deputy Director of Local Fund Audit, vide order, dated 25.06.2011 and it was further certified that there was no financial loss to the Municipality. Despite the same, the amount recovered from the petitioner has not been refunded to her. Hence, the petitioner sent a representation to the third respondent on 07.12.2012 and also sent another representation, dated 18.02.2013. Further, the third respondent sought clarification from the Assistant Director of Local Fund Audit, Theni, as to whether the recovered amount should be refunded to the petitioner or not. The Assistant Director, in his reply, dated 09.02.2015, informed that the third respondent Municipality itself can take a decision in this regard. Pursuant to the clarification issued by the Assistant Director, the third respondent has not taken any action to refund the recovery amount. Hence, the petitioner made several representations to the respondents to refund the said amount and the last representation



is dated 09.04.2021. Till date, no orders have been passed on the representation. Hence, the petitioner has come out with the present Writ Petition.

5. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1, 2 and 4 and the learned counsel appearing for the third respondent.

6. From the materials available on record, it is seen that while the petitioner was working as Manager in the third respondent Municipality from 20.04.2006 to 11.02.2008, an Audit Objection was raised that the petitioner and three others caused financial loss to the third respondent Municipality. The petitioner was fastened with liability of Rs.64,235/- as security amount to the third respondent towards Audit Objection bearing No.140. According to the petitioner, she was compelled by the third respondent to deposit the said amount so that, she can get her terminal benefits. In view of the compulsion, the petitioner remitted the said amount. Subsequently, by proceedings of the Deputy Director of Local Fund Audit, dated 25.06.2011, Audit Objections were dropped on the ground that there was no financial loss to the third respondent Municipality. On clarification sought for by the third respondent from the Assistant Director of Local Fund Audit for refund of the amount deposited by the petitioner, it has been informed that the third respondent itself can take a decision. The petitioner gave a representation on 18.02.2013 for refund of the amount deposited by her as security. Subsequently, again the petitioner sent a representation, on 09.04.2021. Now, the Audit Objection is dropped and the petitioner is entitled to receive the said amount. Since the Audit Objection is dropped, the respondents are directed to refund the amount of Rs.64,235/- recovered from the petitioner, by considering her representation, dated 09.04.2021 and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition is allowed. No costs.

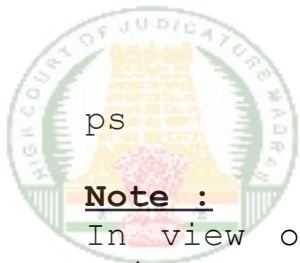
Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



ps

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

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+1 CC to MR.A.RAHUL, Advocate (SR-17819[F] dated 28/04/2021)

+1 CC to SPL GP (SR-18302[F] dated 30/04/2021)

**W . P (MD) No . 8738 of 2021
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KM(28.05.2021) 4P 7C