



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2021

C O R A M

THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W. P. (MD) No. 5916 of 2014

and

M.P. (MD) No. 1 of 2014

WEB COPY

V. Amalraj

... Petitioner

Vs.

1. The Personal Assistant (Development)  
to the District Collector,  
Trichy District,  
Trichy.

2. The Block Development Officer,  
Pullambadi Panchayat Union,  
Trichy District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the 1<sup>st</sup> respondent in his proceedings in Na.Ka.Thal/12637/2013 dated 10.12.2013 and quash the same as devoid of merits and direct the respondents to pay the arrears of salary as per the representation of the petitioner dated 18.02.2013 within the period stipulated by this Court.

For Petitioner : Mr. Ananth C. Rajesh

For Respondents : Mr. D. Gandhiraj,

Counsel for the Government of Tamil Nadu

### O R D E R

(through Video Conference)

Heard Mr. Ananth C. Rajesh, Learned Counsel appearing for the Petitioner and Mr. D. Gandhiraj, Learned Counsel representing the Respondents and perused the materials placed on records, apart from the pleadings of the parties.

2. The Writ Petition challenges the proceedings in Na. Ka. Thal/12637 dated 10.12.2013 passed by the First Respondent in which his appeal for payment of differential wages has been rejected and the Petitioner has been called upon to refund the sum of Rs.12,975/- said to have been excessively paid to him.

3. The main contention of the Petitioner is that no opportunity of personal hearing was afforded to him, while rejecting his claim for differential wages and no show cause notice has been issued calling for any explanation from him before passing the impugned order for recovery of excess payment said to have been made. It is trite law that any administrative action which involves civil consequences



must be made consistently with the rules of natural justice, meaning thereby that the person concerned must be informed of the case with supporting evidence against him and he must be given a fair opportunity to meet the case before an adverse decision is taken. The Government of Tamil Nadu in G.O. Ms. No. 286, Finance (Pension) Department, dated 28.08.2018 after referring to the principles laid down by the Hon'ble Supreme Court of India in **State of Punjab -vs- Rafiq Masih (Whitewasher)** [(2015) 4 SCC 334], has issued detailed instructions providing the manner in which any excess amount paid to Government Servants/Pensioners/Family Pensioners would have to be made.

4. In response to the query made by this Court, Learned Counsel for the Respondents, on instructions, states that no records are available to prove that any opportunity of personal hearing had been afforded or show cause notice had been issued to the Petitioner before passing the impugned order. Such incurable flaw in decision making by the Respondents is in violation of the principles of natural justice and would vitiate the impugned order. In that view of the matter, the impugned order dated 10.12.2013 passed by the First Respondent is set aside leaving it open to the concerned authorities to appropriately deal with the matter following due process. The concerned authorities shall issue show cause notice to the Petitioner along with working-sheet of the calculation for the excess payment claimed to have been made to him in his pay and after affording full opportunity of personal hearing to him and considering each of the objections that may be raised by him, a reasoned order shall be passed in the appeal filed by the Petitioner for payment of differential wages on merits and in accordance with law and if any excess payment had been made to the Petitioner, the procedure laid down in the instructions in G.O. Ms. No. 286, Finance (Pension) Department, dated 28.08.2018 issued by the Government of Tamil Nadu, shall be followed uninhibited and uninfluenced by the earlier order passed in the matter, and the decision taken shall be communicated to the Petitioner under written acknowledgement.

In fine, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



**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.

WEB COPY

To

1.The Personal Assistant (Development)  
to the District Collector,  
Trichy District,  
Trichy.

2.The Block Development Officer,  
Pullambadi Panchayat Union,  
Trichy District.

+1 CC to M/s.ANANTH C.RAJESH, Advocate ( SR-23265[F] dated  
20/07/2021 )

W. P. (MD) No. 5916 of 2014  
19.07.2021

PS (CO)  
KB(18.08.2021) 3P 4C