



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Wednesday, the Tenth day of February Two Thousand and Twenty One

PRESENT

The Hon'ble Mr.Justice M.S.RAMESH

W.M.P. (MD) .Nos.16108 of 2018 and 15085 of 2020
in
W.P. (MD) .No.12878 of 2018

- 1 THE SECRETARY,
STATE OF TAMIL NADU,
MUNICIPAL ADMINISTRATIVE AND WATER SUPPLY DEPARTMENT,
SECRETARIAT, CHENNAI - 600 009.
- 2 THE DIRECTOR,
DIRECTORATE OF TOWN PANCHAYAT,
KURALAGAM,
CHENNAI - 600 108.
- 3 THE DISTRICT COLLECTOR,
COLLECTORATE,
PUDUKKOTTAI DISTRICT.
- 4 THE ASSISTANT DIRECTOR (TOWN PANCHAYAT),
THIRUVARANKULAM (UNION),
THIRUVARANKULAM,
PUDUKKOTTAI DISTRICT.
- 5 THE EXECUTIVE OFFICER,
KEERAMANGALAM TOWN PANCHAYAT,
PUDUKKOTTAI DISTRICT.

... PETITIONERS/RESPONDENTS/
RESPONDENTS
IN BOTH THE PETITIONS

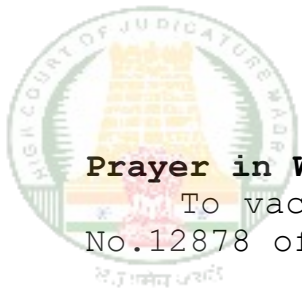
Vs

M.ANBU

... RESPONDENT/PETITIONER/
WRIT PETITIONER
IN BOTH THE PETITIONS

Prayer in W.M.P. (MD) .Nos. 16108 of 2018 :

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to vacate the interim order dated 18.06.2018 passed in WMP(MD) No.11773 of 2018 in WP(MD)No.12878 of 2018 on the file of this Hon'ble Court.

**Prayer in W.M.P. (MD) .Nos. 15085 of 2020 :**

To vacate the interim stay in WMP(MD)No.11773 of 2018 in WP(MD) No.12878 of 2018 dated 18.06.2018.

Prayer in WP(MD)No.12878/2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Certiorarified Mandamus calling for the records in respect of the impugned order issued by the 3rd respondent vide his proceedings Na.Ka.No.612/2214/2017 dated 09.05.2018 and its consequential orders and quash the same and direct the respondents to repay the amount recovered from his salary.

ORDER : These petitions coming up for orders on this day, upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of K.Chellapandian, Additional Advocate General, assisted by Mr.S.Dayalan, Government Advocate, for the petitioner in both the petitions and of Mr.S.I.Muthiah, Advocate for the Respondent in both the petitions, the Court made the following order:-

Heard Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.S.Dayalan, learned Government Advocate, for the vacate stay petitioner and Mr.S.I.Muthiah, learned counsel for the respondent in vacate stay petition.

2.Through the impugned order, dated 09.05.2018, the petitioner, who was originally promoted as a driver, has been demoted to the post of Water Pipe Manager and the excess wages paid to him have been directed to be recovered. The reason assigned in the impugned order is that there was no sanctioned post of driver in the 5th respondent Panchayat. The averments in the counter indicate that the Government had also issued guidelines under G.O.Ms.No.23, Municipal Administration and Water Supply (TP-2) Department, dated 03.03.1998, for creation of driver post in the Town Panchayat. The 5th respondent herein had submitted a proposal for driver post on 21.01.2000. While the proposal was pending, there was a ban for new recruitment vide G.O.Ms.No.212, Personnel & Administrative Reforms (P) Dept. dated 29.11.2001. Subsequently, through G.O.Ms.No.242, Municipal Administration and Water Supply (TP-1) Department, dated 10.12.2009, the services of the contingency workers in the Town Panchayat, who had work for more than 10 years were directed to be regularized. In view of these Government orders, the creation of driver post in the Town Panchayats has become redundant.

3.In these circumstances, no lapse can be attributed to the 5th respondent, who had earlier taken steps to have the driver post sanctioned. The petitioner was also not at fault. The salaries for the post of driver was the decision made by the respondents and non-sanctioning of the post was also due to the various change of policies of the Government.



4.While that being so, the present impugned order, reverting the petitioner to his earlier post and order for recovering of excess salary, is not at all justified. As such, I do not find any merit to interfere with the interim orders passed by this Court. Accordingly, the vacate stay petition stands dismissed.

5.Post the writ petition for final disposal in the regular course. In the mean time, the learned Additional Advocate General, who appears for the respondents is called upon to instruct the Government to endeavour to create a sanctioned post in the 5th respondent Panchayat, in the light of the observations made in this order.

sd/-

10/02/2021

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/ /2021

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

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STATE OF TAMIL NADU,
MUNICIPAL ADMINISTRATIVE AND WATER SUPPLY DEPARTMENT,
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KEERAMANGALAM TOWN PANCHAYAT,
PUDUKKOTTAI DISTRICT.

+1 CC to Mr.S.I.MUTHIAH, Advocate (SR-904[I] dated 11/02/2021)

ORDER IN

WMP(MD)Nos.16108/2018 & 15085/2020
IN

WP(MD) No.12878 of 2018

Date :10/02/2021