



W.P. No. 31682 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 31682 of 2016

and

W.M.P. Nos. 27492 and 27493 of 2016

1. A.Ramar

2. R.Muniappan

3. K.Raja

4. C.Panneerselvam

5. K.Marimuthu

(Writ Petition is withdrawn as against the Fifth Petitioner
vide order dated 15.03.2022 in W.M.P. No. 228 of 2021)

6. A.Ponnunjal

7. L.Amaladass

8. A.Santhanamariappan

9. K.Murugesan

... Petitioners

-VS-

1. The Director of Municipal Administration,
Chepauk,
Chennai – 5.



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2. The Commissioner,
Sivakasi Municipality,
Sivakasi,
Virudhunagar District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, to call for the records in pursuant to the impugned letter issued by the First Respondent in proceedings Rc.Lr.No.45529/F3/2010 dated 21.05.2015 and the consequential impugned common order of recovery issued by the Second Respondent in proceedings Na.Ka. No. 5779/2015/C1 dated 22.07.2016 and quash these orders.

For Petitioners : Mr. R.Prem Narayan

For Respondents : Mr. M.R.Gokulakrishnan
Additional Government Pleader (For R1)

Mr. J.Lawrance (For R2)

ORDER

Heard Mr. R.Prem Narayan, Learned Counsel for the Petitioners, Mr. M.R.Gokulakrishnan, Learned Additional Government Pleader appearing for the First Respondent and Mr. J.Lawrance, Learned Counsel appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.



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2. The First to Fourth and Sixth to Ninth Petitioners, who are in the services

of the Greater Chennai Corporation, have challenged the Proceedings in Rc. Lr.

No. 45529/F3/2010 dated 21.05.2015 passed by the First Respondent and the

proceedings in Na. Ka. No. 4298/2012/ E1 dated 18.11.2015 passed by the

Second Respondent in which they have been informed that the excess payment

of Rs. 1,99,708/-, Rs. 1,53,274/-, Rs. 2,34,496/-, Rs. 1,19,516, Rs. 2,19,347/-

Rs. 2,31,300/- Rs. 1,98,650/-, Rs. 2,29,303/- and Rs. 2,07,869/- made to them

would be recovered from their salary in 20 monthly installments.

3. This Court at the time of admission on 12.09.2016 had granted an order

of interim stay of recovery alone, which continues to be in force as on date. The

Writ Petition has already been dismissed as withdrawn as against the Fifth

Petitioner by order passed on 15.03.2022 in W.M.P. No. 228 of 2021 by the

Court.

4. 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



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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.

5. There is nothing to show in the impugned orders that before the excess payment claimed to have been made was effected, any show cause notice had been issued to the First to Fourth and Sixth to Ninth Petitioners calling for an explanation from them with supporting materials relied in that regard. Such incurable flaw in decision making by the Respondents is in violation of the principles of natural justice and would vitiate the impugned orders. In that view of the matter, the impugned orders passed by the First and Second Respondents are set aside leaving it open to the concerned authorities to appropriately deal with the matter following due process. It shall be incumbent upon the concerned authorities to issue show cause notice to the First to Fourth and Sixth to Ninth Petitioners along with working-sheet of the calculation for the excess payment claimed to have been made to them and after affording full opportunity of personal hearing to them and considering each of the objections



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that may be raised by them, a reasoned order shall be passed on merits and in accordance with law following 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, uninhibited and uninfluenced by the earlier order passed in the matter, and the decision taken shall be communicated to the First to Fourth and Sixth to Ninth Petitioners under written acknowledgement.

6. In the event of the concerned authorities failing to initiate fresh such proceedings within 30.09.2022, any amount so far recovered from the First to Fourth and Sixth to Ninth Petitioners pursuant to the impugned orders, which have been set aside, shall be refunded to them under written acknowledgment and report of compliance in that regard shall be filed before the Registrar (Judicial) of this Court.

7. In fine, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No

Note: Issue order copy by 19.07.2022.



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WEB COPY

1. The Director of Municipal Administration,
Chepauk,
Chennai – 5.
2. The Commissioner,
Sivakasi Municipality,
Sivakasi,
Virudhunagar District.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

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