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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2022

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

W.P. No. 26840 of 2017

and

W.M.P. Nos. 28569 and 28570 of 2017

T.Dhayalan

... Petitioner

-vs-

1. The Commissioner of Municipal Administration,
Chepauk, Chennai 600 005.
2. The Commissioner,
Vellore City Municipal Corporation,
Vellore, Vellore District.

... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for records on the file of the Second Respondent relating to the order issued in PPO No. 235 in File No. B6/10710/2016 dated 18.08.2016 and quash the same and consequently direct the Respondents to disburse the deducted amount of Rs. 1,47,732/- to the Petitioner forthwith and pensionary benefits by fixing pay scale of Rs. 6355/- to the Petitioner.

For Petitioner : Mr. R.Chandrasekaran

For Respondents : Mrs. C.Sangamithirai
Special Government Pleader

O R D E R

Heard Mr. R.Chandrasekaran, Learned Counsel for the Petitioner and Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Proceedings in PPO No. 235 in File No. B6/10710/2016 dated 18.08.2016 passed by the Second Respondent in which the Petitioner has been informed that the



sum of Rs. 1,41,909/- excessively paid to him would be recovered from his terminal benefits. It is further contended that the sum of Rs. 1,47,732/- has been deducted from his terminal benefits and in furtherance thereto, a consequential direction is sought for refund of the deducted amount and to grant retirement and pensionary benefits by fixing pay scale of Rs. 6,355/- to him.

3. 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. There is nothing to show in the impugned order that before the excess payment claimed to have been made was effected, any show cause notice had been issued to the Petitioner calling for an explanation from him 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 order. In that view of the matter, the impugned order passed by the Second Respondent is 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 Petitioner along with working-sheet of the calculation for the excess payment claimed to have been made to him 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 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 Petitioner under written acknowledgement.

5. In the event of the concerned authorities failing to initiate fresh such proceedings within 31.07.2022, any amount so far recovered from the Petitioner pursuant to the impugned order, which has been set aside, shall be refunded to him under written acknowledgment and report of compliance in that regard shall be filed before the Registrar (Judicial) of this Court.



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

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Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Municipal Administration,
Chepauk, Chennai 600 005.
2. The Commissioner,
Vellore City Municipal Corporation,
Vellore, Vellore District.

Copy to

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

+1cc to Mr.Chandrasekaran, Advocate, S.R.No.16576

W.P. No. 26840 of 2017

BR(CO)
SU(11/05/2022)