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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM

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

W.P. No. 26035 of 2018
and
W.M.P. No. 30253 of 2018

G.R.Sampath Kumar

...Petitioner

-vs-

1. The District Collector (P.D.Section)
Coimbatore District,
Coimbatore.

2. The Commissioner,
Pollachi North,
Panchayat Union,
Coimbatore District.

...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India, issued for a Writ of Certiorari, to call for the records pertaining to the order bearing e.f.vz;. 1304/17/ml dated 14.03.2018 passed by the Commissioner, Panchayat Union, Pollachi, the second respondent herein and quash the same.

For Petitioners: Mrs. T.Hemalatha

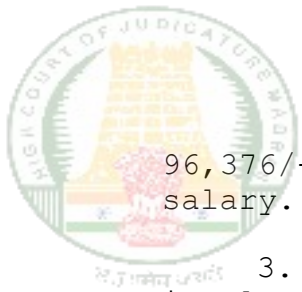
For Respondents: Mrs. C.Sangamithirai
Special Government Pleader (for R1)

Mr. Ravikumar (for R2)

O R D E R

Heard Mrs. T.Hemalatha, Learned Counsel for the Petitioner, Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the First Respondent and Mr. Ravikumar, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who is working as Record Clerk in Pollachi (North) Panchayat Union, challenges the Proceedings in Na. Ka. No. 1304/17/A1 dated 14.03.2018 passed by the Second Respondent in which he has been informed that the sum of Rs.



96,376/- excessively paid to him would be recovered from his salary.

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.

6. 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 Petition is closed. No costs.

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s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The District Collector (P.D.Section)
Coimbatore District, Coimbatore.
2. The Commissioner,
Pollachi North Panchayat Union,
Coimbatore District.

Copy to

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

+1 CC to The Government Pleader sr 20364.

W.P. No. 26035 of 2018

MG(CO)
SP(11/05/2022)