



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.21434 of 2019

and

W.M.P(MD)Nos.18103 and 18104 of 2019

Thangeshwaran

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
represented by its Secretary,
Rural Development Department,
Fort St.George,
Chennai.
- 2.The District Collector,
Kanyakumari District.
- 3.Katti Mankodu Panchayat,
represented by its Special Officer/
The Block Development Officer,
Kattimankodu,
Kalkulam Taluk,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records pertaining to the impugned order issued by the third respondent in his proceedings in Se.Mu.No.A1/3844/2018, dated 17.07.2019 and to quash the same as illegal.

For Petitioner : Mr.S.M.Mohan Gandhi

For R1 and R2 : Mr.C.Ramesh
Govt. Advocate

For R3 : Mr.A.Thiagarajan
(No appearance)

ORDER

The order impugned is to recover the excess wages paid to the petitioner.

2.The petitioner is working as Over Head Tank Operator in the third respondent Panchayat. Based on the Government Orders, pay of the petitioner was revised. Admittedly, the petitioner earlier filed a writ petition in W.P.(MD)No.19217 of 2013 for direction to direct



the respondent to pay wages on the basis of daily wage as fixed by the second respondent therein, ie., District Collector. However, the said writ petition was withdrawn and thereafter the third respondent issued the impugned order of recovery.

3.The learned counsel for the petitioner mainly contended that no show cause notice was issued and the writ petition as referred in the impugned order had been withdrawn by the petitioner and therefore, the impugned order of recovery is to be set aside.

4.The learned Government Advocate appearing on behalf of the respondents 1 and 2 made a submission that the earlier writ petition for a direction to pay the wages was withdrawn. Therefore, excess pay granted to the writ petitioner was calculated and the order of recovery was issued and therefore, there is no infirmity.

5.This Court is of the opinion that any order affecting the service condition of the employee has to be issued only after providing an opportunity to the employee concerned. The employee must be given an opportunity to defend the case. Contrarily, unilateral decision cannot be taken for the purpose of imposing recovery, as it will affect the wages.

6.In this view of the matter, the impugned order passed by the third respondent in proceedings in Se.Mu.No.A1/3844/2018, dated 17.07.2019 is quashed and the matter is remanded back to the third respondent for issuing a show cause notice. Accordingly, the third respondent is directed to issue show cause notice setting out the facts and details, within a period of four weeks from the date of receipt of a copy of this order and the petitioner is directed to submit his explanation within a period of two weeks from the date of receipt of the show cause notice to be issued. Thereafter, the third respondent is directed to consider the explanation submitted by the writ petitioner and pass appropriate orders on merits and in accordance with law, within a period of eight weeks therefrom.

7.With the above direction, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

1.The Secretary,
State of Tamil Nadu,
Rural Development Department,
Fort St.George,
Chennai.

2.The District Collector,
Kanyakumari District.

3.The Special Officer/Block Development Officer,,
Katti Mankodu Panchayat,
Kattimankodu,
Kalkulam Taluk,
Kanyakumari District.

+1 CC to M/s.SPL GP (SR-6178[F] dated 15/02/2022)

W.P. (MD) No.21434 of 2019
and
W.M.P (MD) Nos.18103 and
18104 of 2019
14.02.2022

MGJ(03.03.2022) 3P 5C