



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.23646 of 2019

and

W.M.P. (MD)No.20250 of 2019

WEB COPY

M.Muthuraj

... Petitioner

-Vs-

The Tahsildar,
Kovilpatti Taluk Office,
Kovilpatti, Thoothukudi District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of recovery in A4/18633/2014 dated 17.10.2019 on the file of the respondent and quash the same as illegal and consequently direction directing the respondent to refund the recovery amount which was made from the petitioner's salary account from July 2019.

For Petitioner	: Mr.L.Pinaygash
For Respondent	: Mr.AK.Manikkam, Special Government Pleader.

ORDER

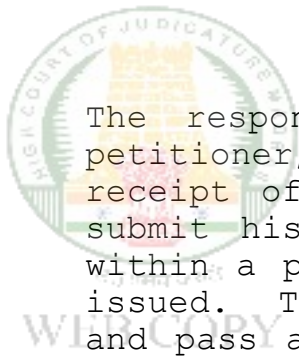
The petitioner is working as Village Administrative Officer. On account of audit objections raised with reference to erroneous fixation of pay and excess payment, the Tahsildar, Kovilpatti / respondent herein has issued the impugned order of recovery.

2.The learned counsel appearing for the petitioner made a submission that the impugned order has been passed without issuing any show cause notice and providing an opportunity to the writ petitioner.

3.Any order affecting the service conditions of an employee is to be passed only after providing an opportunity. The employee must have some defence in respect of such audit objections. Therefore, affording an opportunity is mandatory.

4.In the present case, the respondent is unable to establish that show cause notice was issued to the petitioner, calling for explanations with reference to the excess payment granted to him. Thus, the impugned order is in violation of principles of natural justice.

5.Accordingly, the impugned order passed by the respondent in proceedings No.A4/18633/2014, dated 17.10.2019 is quashed and the matter is remanded back to the respondent for fresh consideration.



The respondent is directed to issue show cause notice to the petitioner, within a period of four (4) weeks from the date of receipt of a copy of this order. The petitioner is directed to submit his explanation / objections along with documents if any, within a period of two (2) weeks from the show cause notice to be issued. The respondent shall consider the explanation / objections and pass appropriate orders on merits and in accordance with law, within a period of twelve (12) weeks therefrom.

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

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Myr

To

The Tahsildar,
Kovilpatti Taluk Office,
Kovilpatti, Thoothukudi District.

+1 CC to M/s.SPL GP (SR-6224[F] dated 15/02/2022)

W.P. (MD)No.23646 of 2019

14.02.2022

CK (CO)

GC(25.02.2022) 2P 3C