



W.P.(MD)No.28226 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.28226 of 2022

and

W.M.P.(MD)Nos.22301 and 22302 of 2022

V.Mahadevan

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai – 600 009.

2. The Director of Municipal Administration,
Chepauk,
Chennai – 600 005.

3. The Commissioner,
Kadayanallur Municipality,
Kadayanallur – 627 751.
Tenkasi District.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records in pursuance of the impugned letter issued by the second respondent in proceedings Rc.Lr.No.45529/F3/2010 dated 21.05.2015 and the consequential impugned order of re-fixation and recovery order issued by the third respondent in proceeding Na.Ka.No3636/2017/C1 dated 03.10.2017 and quash these orders.

For Petitioner : Mr.R.Matiyalagan

For Respondents : Mr.G.Vairam Santhosh
Addl. Govt. Pleader for R1 and R2
Mr.M.Saravanakumar
Standing Counsel for R3

ORDER

This Writ Petition has been filed to call for the records in pursuance of the impugned letter issued by the second respondent vide proceedings in Rc.Lr.No.45529/F3/2010, dated 21.05.2015 and the consequential impugned order of re-fixation and recovery order issued by the third respondent vide proceedings in Na.Ka.No3636/2017/C1, dated 03.10.2017 and quash these orders.

2. The case of the petitioner is that the petitioner was working as Watchman in the third respondent Municipality and his pay was fixed in



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accordance with the Government Order in G.O.Ms.No.338, Finance (Pay Cell) Department, dated 26.08.2010. Thereafter, the second respondent issued the clarification letter, vide proceedings dated 21.05.2015 and unilaterally cancelled the re-categorization of the posts held by the petitioner and also cancelled the scale of pay granted to the petitioner at the rate of Rs.5,200-20,200+G.P.1900 and consequently, ordered for recovery. Pursuant to the impugned order, dated 21.05.2015, the third respondent issued the consequential impugned order of reduction of scale of pay and recovery of excess pay vide proceedings dated 03.10.2017. Aggrieved over the same, the petitioner has filed a Writ Petition before the Principal Seat of this Court in W.P.No.30298 of 2017 and the same was dismissed with liberty to file a fresh petition before this Court. Hence, the present Writ Petition.

3. The learned counsel appearing for the petitioner would submit that the impugned orders are passed without giving any opportunity, which is in violation of principles of natural justice and accordingly, he prayed for appropriate orders.



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4. The learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that this Court may issue a direction to the petitioner to treat these impugned orders as show cause notice and submit the explanation within a period of four weeks.

5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. A perusal of the impugned orders reveal that no show cause notice was given to the petitioner and hence, this Court is inclined to pass the following directions:

(i) The petitioner is directed to treat these impugned orders as show cause notice and give explanation to the third respondent within a period of four weeks from the date of receipt of a copy of this order; and

(ii) On receipt of such explanation, the third respondent is directed to conduct enquiry and pass appropriate orders within a period of four weeks thereafter.



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7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No

Speaking Order : Yes / No

vji

To

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