



W.P. No.16779 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2023

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.16779 of 2012
and M.P. No.1 of 2012

V.Balakrishnan

... Petitioner

Vs.

1.The Deputy Manager (Pension)
Metropolitan Transport Corporation,
(Chennai) Limited,
Pallavaram House
Annasalai, Chennai 600 002.

2.The Trustee
Metropolitan Transport Corporation,
Employees Gratuity Fund Trust,
Thiruvalluvar House, Anna Salai,
Chennai 600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the respondents relating to the letter No.34592/குஓஉ/ஓய்வூதியம்/மா.பே.க./2010 dated 13.06.2012, by the first respondent and to quash the same.



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For Petitioner : Mr.S.Baskaran
For Respondents : Mr.A.Vinothraj,
Standing counsel for R1
No Appearance for R2

ORDER

The writ petition filed challenging the letter dated 13.06.2012 whereby, a sum of Rs.36,777/- and Rs.30,791/- is sought to be recovered on the premise that it has been paid in excess.

2. It is submitted by the learned counsel for the petitioner that the above recovery proceeding has been initiated without even putting the petitioner on notice. As a matter of fact, it is submitted that previously this Court in W.P.No.10468 of 1995 has issued following directions. The relevant portion of the order is extracted here under:

"4. Learned counsel for the petitioner Management has submitted that the Labour Court has awarded 75% of backwages and the petitioner has deposited Rs.55,000/- towards backwages.

5. However, it has to be seen that as the second respondent has already been reinstated into service, it



would suffice to reduce the backwages from 75% to 50% with liberty to the second respondent to withdraw Rs.40,000/- deposited by the petitioner Management.

6.Under the above circumstances, a direction is issued to the Labour Court to permit the second respondent to withdraw Rs.40,000/- and Rs.15,000/- shall be refunded to the petitioner Management. However, it is made clear that this order will not stand in the way of the Labour Court to dispose of C.P.No.330 of 2001 and the Labour Court is directed to dispose of the computation petition within a period of six months from the date of receipt of a copy of this order."

It is submitted that the petitioner was reinstated, therefore the impugned proceeding is clearly lacking jurisdiction apart from that it is also in violation of principles of natural justice.

4. This Court finds merit in the submission of the learned counsel for the petitioner as no notice was issued to the petitioner prior to the recovery proceeding. Therefore it is open to the petitioner to treat the impugned proceeding as notice. The petitioner may file his objection within a period of four weeks from the date of receipt of a copy of this order. Thereafter,



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the first respondent shall decide the same within a period of eight weeks after affording the petitioner an opportunity of hearing. The learned counsel for the first respondent does not have any objection to the above.

4. With the above direction, the writ petition stands disposed of. Consequently, connected miscellaneous petition is closed.

03.02.2023

Speaking (or) Non Speaking Order

Index : Yes/ No

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To:

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MOHAMMED SHAFFIQ, J.

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