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W.A.No.2754 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.07.2023

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN
AND
THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

W.A.No.2754 of 2022

S.Deva

.. Appellant

Vs.

1.The Tamil Nadu Local Bodies Ombudsman
No.100, Anna Salai
Guindy, Chennai 600 032

2.The Government of Tamil Nadu
Rep. by its Secretary
Municipal Administration & Water Supply Dept.
Fort St. George, Chennai 600 009

3.The Director of Town Panchayats
Chennai 600 104

4.The Assistant Director of Town Panchayats
Erode, Erode District

5.The Executive Officer
Modakurichi Town Panchayat
Erode District

6.The Chairman High Level Committee
Local Fund Audit/District Collector Erode
Erode District 638 011

.. Respondents



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Writ Appeal filed under Clause 15 of Letters Patent Act, against the order dated 11.03.2022 passed in W.P.No.26490 of 2017.

For Appellants : Mr.K.Raja
Special Government Pleader
For R1 to R4 & R6 : Mr.S.Silambannan
Additional Advocate General
Assisted by Mrs.Mythrye Chandru
Special Government Pleader
For R5 : Mr.M.Murali

J U D G M E N T

(Judgment of the court was delivered by R. MAHADEVAN, J.)

Heard all the parties and perused the materials available on record.

2. Assailing the order dated 11.03.2022 passed by the learned Judge in W.P.No.26490 of 2017, the appellant has preferred this writ appeal.

3. The necessary facts leading to the filing of this writ appeal are as under:

The appellant herein / writ petitioner was earlier working as Executive Officer in Modakurichi Town Panchayat and later on, transferred to Perunthurai Town Panchayat. While working in Modakurichi Town Panchayat, due to the



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irregularities committed by him in discharge of his duties as Executive Officer,

he was directed to pay compensation to the tune of Rs.37,41,366/- by the 1st respondent *vide* order dated 15.04.2016, for the loss incurred to Modakurichi Town Panchayat due to the action of not ensuring the transfer of 10% of land under Open Space Reservation from the land owners while granting lay-out approval. He was also directed to pay a sum of Rs.13,225/- due to the irregularities in the erection of borewells. Audit objections were also raised on the said irregularities. The appellant / writ petitioner had submitted his representation on 26.10.2016 to drop the same. This Court, by order dated 22.11.2016 in W.P.No.40618 of 2016, directed the fourth and fifth respondents therein to consider and pass appropriate orders on his representation dated 26.10.2016. The Regional Director, Local Fund Audit Department, Tirupur Region, by order dated 25.01.2017, concurred with the assessment of loss made by the 1st respondent in his order dated 15.04.2016. Therefore, the 4th respondent had passed a consequential order dated 21.09.2016, communicating the appellant to deposit the above compensation amounts totalling to Rs.37,54,591/- with the Modakurichi Town Panchayat Office. Challenging the orders dated 15.04.2016 and 21.09.2026, the appellant had filed W.P.No.26490 of 2017. By way of the order impugned herein, the learned Judge dismissed the writ petition holding that the appellant had not followed



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the requirements of administrative procedure which clearly amounts to dereliction of duty causing loss to the employer and it would fall within the meaning of maladministration and therefore, the orders impugned in the writ petition, require no interference. Aggrieved by the same, the appellant / writ petitioner is before this Court with the present appeal.

4. After making arguments for some time, the learned counsel appearing for the appellant submitted that the appellant is inclined to co-operate with the authorities for settling the audit objections of the years in question and hence, it would suffice, if the respondent authorities are directed to finalise the audit objections, within a time frame to be stipulated by this court. To that effect, the learned counsel has also filed an undertaking affidavit of the appellant dated 22.04.2023, the relevant portion of which is usefully reproduced below:

“5. I humbly submit that till date, I have not been settled retirement benefits including provisional pension. I hereby undertake that I will extend my co-operation to settle audit objections of the year 2012-13, 2013-14 and 2014-15.

6. I further undertake that until the audit objections are settled the respondents may retain my retirement benefits and the same may be released after the settlement of audit objections.

7. I humbly submit that appropriate direction may be given to 4th to 6th respondents to extend their co-operation as per the Tamil Nadu Local Fund Audit Act, 2014, so as to finalise the audit objections within 6 months.”



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5. Taking note of the above affidavit and as agreed by the learned counsel appearing for the respondents, this court, without going into the merits of the case, directs the respondent authorities to consider the affidavit filed by the appellant dated 22.04.2023 and proceed further with regard to settlement of the audit objections for the years in question, on merits and in accordance with law, after affording an opportunity of hearing to all the parties, as expeditiously as possible.

6. Accordingly, this writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D,J.] [M.S.Q, J.]
19.07.2023

Internet : Yes
Neutral Citation : Yes/No
gya

To
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