



W.P.(MD).No.13881 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.13881 of 2016

and

W.M.P.(MD).Nos.10334 and 10335 of 2016

R.S.Shanthi Mai

... Petitioner

Vs.

1.The Commissioner,
Madurai Municipal Corporation,
Madurai.

2.The Deputy Director,
Local Fund Audit,
Corporation Audit,
Madurai – 625 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.No.MaNi 1/26977/2015 dated 31.10.2015 and quash the same as illegal and consequently directing the first respondent to disburse the retirement benefits and all other attendant and other benefits to the petitioner with interest at the rate of 24% per annum within a time frame fixed by this Court including monthly pension in terms of the proceedings of the second respondent in Ne.Mu.No.2216/A1/2015 dated 20.10.2015.



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W.P.(MD).No.13881 of 2016

For Petitioner : Mr.D.Kirubakaran

For R-1 : R.Murali

For R-2 : No Appearance

ORDER

This Writ Petition is filed for Writ of Certiorarified Mandamus to quash the order dated 31.10.2015 and to disburse the retirement benefits with attendant benefits and other benefits with 24% interest.

2. The petitioner joined the respondent Corporation service on 10.10.1977 as Junior Assistant and promoted to various post. After serving for so many years, the petitioner retired from service on 31.10.2015 on attaining superannuation from the post of Accounts Officer. On the date of superannuation, the respondents have issued the impugned proceedings dated 31.10.2015 to deduct Rs.63,594/- from the petitioner's terminal benefits which is 20% of loss (total loss is Rs.3,17,972/-) incurred to the respondent corporation

- i. By renewing the license of Kochadai Lorry Parking Stand,
- ii. By wrongly calculating the lease amount for new College House Public Toilet
- iii. By renewing license without bringing South Chitrai Street Public Toilet for auction.



W.P.(MD).No.13881 of 2016

For not carrying the aforesaid acts, the Corporation has incurred the loss to the tune of Rs.3,17,972/-. Therefore, the respondents have fixed liability of 20% on the petitioner which comes to Rs.63,594/-.

3. The contention of the petitioner is that the petitioner is on the verge of retirement. Moreover the second respondent has sent a communication dated 20.10.2015 to the Commissioner of Madurai Municipal Corporation that there is no duties or no other financial commitment on the part of the petitioner. After this communication, the first respondent has issued the impugned communication that too on the verge of his retirement. Moreover, before passing this order of deduction, the respondents have not issued any notice to the petitioner and also not initiated any disciplinary proceedings. The respondents have not called for any objection and without issuing any prior notice, the impugned order is passed. Therefore, the petitioner submitted that the impugned order is violative of principles of natural justice.

4. The respondents have filed a counter stating that the respondents are empowered to collect the loss from the erring official as per G.O.Ms.No.204 Municipal Administration Water Supply Department dated 14.08.1992. Therefore, nothing prevents the respondents from issuing the impugned order.



W.P.(MD).No.13881 of 2016

WEB COPY

5. Heard Mr.D.Kirubakaran, learned counsel for the petitioner and R.Murali, learned counsel for the first respondent and perused the records.

6. After hearing the rival submissions, this Court has given its anxious consideration. The contention of the respondents cannot be accepted because the impugned order is passed without issuing any notice or without calling for any objections from the petitioner. Moreover, the petitioner is on the verge of his retirement. The learned counsel appearing for the petitioner has rightly pointed out that the Deputy Director of Local Fund Audit has issued No Due Certificate through proceedings dated 20.10.2015. Moreover, the respondents cannot deduct from the terminal benefits without granting adequate opportunity. In the present case, since the petitioner has retired, the matter cannot be remitted back, since there is no employer-employee relationship. Hence, the impugned order is liable to be quashed and the impugned order is quashed.

7. Pending Writ Petition, the respondents have paid the entire monetary benefits except Rs.63,594/- (Rupees Sixty Three Thousand Five Hundred and Ninety Four only). Therefore this Court directs the respondents to pay the same



W.P.(MD).No.13881 of 2016

to the petitioner. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

8. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

15.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

1.The Commissioner,
Madurai Municipal Corporation,
Madurai.

2.The Deputy Director,
Local Fund Audit,
Corporation Audit,
Madurai – 625 002.



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W.P.(MD).No.13881 of 2016

S.SRIMATHY, J.

Nsr

W.P.(MD).No.13881 of 2016

15.06.2023