IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.02.2024**

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.20586 of 2011
and
M.P.No.01 of 2011

M.Karunanithi ....Petitioner

Vs

1. The Director/ Commissioner of Municipal
   Administration and
   Water Supply Department
   Chepauk,
   Chennai 600 005.

2. The Commissioner,
   Villupuram Municipality,
   Villupuram.

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorari calling for the records relating to the order passed by the 2nd Respondent in Na.Ka.No.951/2011/H1 dated 16.06.2011 and quash the same and thereby directing the Respondents to pay a sum of Rs.63,992/- with held in DCRG with 18% of Interest from the date of retirement compoundable annually.

For Petitioner : Mr.A.R.Nixen
For R1 : M/s.Tamil Selvi AGP

For R2 : Mr. B.Anand

O R D E R

The Writ Petition has been filed to call for the records relating to the order passed by the 2nd Respondent in Na.Ka.No.951/2011/H1 dated 16.06.2011 and quash the same and thereby directing the Respondents to pay a sum of Rs.63,992/- with held in DCRG with 18% of Interest from the date of retirement compoundable annually.

2. It is the submission of the learned counsel for the petitioner that, petitioner was working as Revenue Assistant in the Villupuram Municipality. He retired from service on 31.07.2011. Just prior to his retirement, 2nd respondent passed an order in Na.Ka.No.951/2011/H1 dated 16.06.2011 stating that petitioner has failed to collect Property Tax, Land Revenue and Professional Tax which was time barred and thus directed the petitioner to pay 30% arrears amount ie., Rs.63,992/-. This amount was ordered to be deducted from the salary of the petitioner from June 2011 and from his Gratuity amount.

3. It is his further submission that, before imposing this punishment, not even show cause notice was issued to the petitioner and without affording any opportunity to explain the charges against him, punishment was imposed. Therefore, present petition is filed.

4. The learned counsel for the respondents submitted that, 2nd respondent has periodically given instructions to the Revenue Staff to collect the balance tax arrears. Petitioner has not taken any steps for more than 12 years to collect the amount. Therefore, 30% of the due was ordered to be recovered from DCRG. He further submitted that, petitioner has not only failed to collect property tax, but failed to initiate any action as per law. Therefore, the impugned order was passed.

5. Considered the rival submissions and perused the records. The main ground on which, the Writ Petition is filed challenging the impugned order is that, impugned order was passed without affording any opportunity to the petitioner. The bare perusal of the impugned order shows that not even a show cause notice was issued to the petitioner before passing the impugned order. The 2nd respondent ought to have issued Show Cause

Notice intimating alleged misconduct or dereliction of duty calling for his explanation. Punishment should have been awarded after following the necessary procedure of conducting enquiry. None of these procedures was followed in this case. Therefore, this Court is of the view that the impugned order passed by the 2nd Respondent cannot be sustained. Accordingly Na.Ka.No.951/2011/H1 dated 16.06.2011 is set aside. Respondents are directed to pay a sum of Rs.63,992/- recovered from the petitioner with interest at 6% per annum from the date of recovery till the date of payment.

6. Accordingly, this Writ Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

29.02.2024

Index :Yes/No
Internet:Yes/No
Sma

To

1. The Director/ Commissioner of Municipal
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2. The Commissioner,
   Villupuram Municipality,
   Villupuram.

G.CHANDRASEKHARAN, J

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