



Writ Petition No.21425 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.21425 of 2024

and

W.M.P.Nos.23388 & 23391 of 2024

S.Balasubramaniyan
S/o.Shanmugavel

... Petitioner

Vs.

- 1.The Principal Secretary to Government,
Municipal Administration and Water Supply
Department,
Secretariat, Chennai - 600 009.
- 2.The Director of Municipal Administration,
Directorate of Municipal Administration,
M.R.C. Nagar, Chennai - 600 028.
- 3.The Regional Director of Municipal Administration,
Vellore.
- 4.The Municipal Commissioner,
Vaniyambadi Municipality,
Vaniyambadi.
- 5.The Municipal Commissioner,
Thiruvathipuram Municipality,
Nagercoil.



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6.The Director of Local Fund Audit,
Directorate of Local Fund Audit,
Integrated Office Complex for Finance Department,
Anna Salai, Nandhanam,
Chennai - 600 035.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the Letter No.3902/M.E.3/2024-1 dated 31.05.2024 issued by the first respondent directing the second respondent to recover a sum of Rs.21,95,343/- from the DCRG of the petitioner and quash the same and thereby directing the respondents to disburse the DCRG along with interest.

For Petitioner : Mr.M.Duraimurugan

For Respondents : Dr.T.Seenivasan,
Special Government Pleader [R1 to R5]
Mr.P.Balathandayutham
Special Government Pleader [R6]

ORDER

This writ petition has been filed challenging the impugned Letter No.3902/M.E.3/2024-1 dated 31.05.2024 issued by the first respondent directing the second respondent to recover a sum of Rs.21,95,343/- from the DCRG of the petitioner.



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2. Heard Mr.M.Duraimurugan, learned counsel for petitioner and Dr.T.Seenivasan, learned Special Government Pleader, appearing for respondents 1 to 5 and Mr.P.Balathandayutham, learned Special Government Pleader appearing for sixth respondent.

3. The case of the petitioner is that he was appointed as Health Assistant in Palayamkottai Municipality on 12.06.1985 and he continued there till the year 1993. Subsequently, he was promoted to the cadre of Sanitary Inspector and thereafter, he was transferred to various municipalities and he served in those municipalities in that capacity.

4. The petitioner, after putting in 29 years of service, retired on 31.05.2024 from the fourth respondent municipality and on his date of retirement, the Government issued G.O.(D)No.264, dated 31.05.2024, allowing the petitioner to retire from service with a condition that if any audit objection is raised against the petitioner in future, the petitioner will be subjected to disciplinary action under the pension rules and the amount will be recovered from the petitioner on such losses that are identified by the audit.



5. The petitioner received the impugned letter from the first respondent wherein the first respondent has directed the second respondent to recover a sum of Rs.21,95,343/- from the DCRG of the petitioner.

6. It is true that at the time of superannuation of the petitioner, the petitioner was informed that in case of any such contingency that may arise in future, proceedings will be initiated against the petitioner for recovery. However, that does not mean that the petitioner will not even be put on notice before such recovery proceedings are initiated. The first respondent has straight away directed the second respondent to recover a sum of Rs.21,95,343/- from the DCRG of the petitioner. Such direction issued by the first respondent has civil consequences and therefore, such a step can be taken only by giving an opportunity to the petitioner. The petitioner obviously has some defence on his side which he wants to put forth, before the first respondent takes any decision.

7. In the light of the above discussion, the impugned Letter No.3902/M.E.3/2024-1 dated 31.05.2024 issued by the first respondent, is hereby set aside. The matter is remanded back to the file of the first



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respondent and the first respondent is directed to issue notice to the petitioner calling upon the petitioner to give his reply. Based on the same, the first respondent shall take a decision on its own merits and in accordance with law. This process shall be completed by the first respondent within a period of eight (8) weeks from the date of receipt of a copy of this order.

In the result, this Writ Petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

05.08.2024

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order

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To

1.The Principal Secretary to Government,
Municipal Administration and Water Supply
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Secretariat, Chennai - 600 009.

2.The Director of Municipal Administration,
Directorate of Municipal Administration,
M.R.C. Nagar, Chennai - 600 028.

3.The Regional Director of Municipal Administration,
Vellore.



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- 4.The Municipal Commissioner,
Vaniyambadi Municipality,
Vaniyambadi.
- 5.The Municipal Commissioner,
Thiruvathipuram Municipality,
Nagercoil.
- 6.The Director of Local Fund Audit,
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