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Writ Petition No.23756 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.23756 of 2024
and WMP No.25995 of 2024

M.Jayaseelan

... Petitioner

Vs.

1. The Director of Public Health and Preventive Medicine,
Chennai 600 006.

2. The District Health Officer,
Thirupathur

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari to call for the records relating to the order No.Na.Ka.No.0561/E3/2024 dated 21.06.2024 passed by the 2nd respondent.

For Petitioner : Mr.M.Gnanasekar

For Respondent : Mr.M.Bindran
Additional Government Pleader

ORDER

This writ petition has been filed challenging the proceedings of the 2nd respondent in Na.Ka.No.0561/E3/2024 dated 21.06.2024.



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2. Heard Mr.M.Gnanasekar, learned counsel for the petitioner and Mr.M.Bindran, Additional Government Pleader appearing for respondents.

3. The case of the petitioner is that he joined the department as a Leprosy Inspector in the year 1988. Subsequently, he was promoted as an Health Inspector during the year 1997. The petitioner was subsequently promoted as Block Health Supervisor in the year 2014. The petitioner was once again promoted to the post of Technical PA II District Health Officer in the year 2022. The petitioner attained superannuation on 31.05.2024.

4. The 2nd respondent through proceedings dated 21.06.2024 has directed the District Treasury Officer to recover an amount of Rs.4,44,460/- from the Death Cum Retirement Gratuity of the petitioner. This order has been put to challenge in the present writ petition.

5. In the considered view of this Court, no such proceedings for recovery was initiated at the time when the petitioner was in service.



Ultimately, if the respondents want to initiate any proceedings for recovery on the ground that excess payments have been made, the concerned employee must be put on notice since such recovery results in civil consequences.

6. Only if the petitioner is put on notice, the petitioner will be able to explain their position and they will be able to take a defence as to why such a recovery cannot be sustained on account of the error that was committed by the employer. If that is not done and straight away recovery is done, such order will violate Principles of Natural Justice. That is more so since such order has been passed against an employee who has already retired from service.

7. In the light of the above discussion, this Court finds that the impugned proceedings of the 2nd respondent suffers from violation of Principles of Natural Justice and the same is liable to be interfered by this Court. Accordingly, the order passed by the 2nd respondent in Na.Ka.No.0561/E3/2024 dated 21.06.2024 is hereby quashed. If ultimately the 2nd respondent wants to initiate any recovery proceedings against the petitioner, the 2nd respondent is directed to issue a proper



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notice to the petitioner, call for his explanation and thereafter if such a recovery is justified, can proceed further in accordance with law. In the absence of the same, no recovery can be done from the petitioner.

8. In the result, this writ petition is allowed in the above terms.

No costs. Consequently, the connected miscellaneous petition is closed.

21.08.2024

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order

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To

1. The Director of Public Health and Preventive Medicine,
Chennai 600 006.

2. The District Health Officer,
Thirupathur

N.ANAND VENKATESH, J



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