



W.P.(MD)No.1544 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.1544 of 2021
and
WMP(MD)Nos.1323 and 5987 of 2021

S.Selvaraj

.. Petitioner

Vs.

1. The Tamil Nadu Fire and Rescue Department,
Rep. by its Director,
No.17, Rukmani Lakshmipathi Road,
Egmore,
Chennai.

2. The District Officer,
The Tamil Nadu Fire and Rescue Department,
Ramanathapuram District,
Ramanathapuram.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus, to call for the records
pertaining to the impugned order in Na.Ka.No.1996/Aa1/2020 dated



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15.10.2020 on the file of the respondent No.2 and quash the same as illegal and consequently forbearing the respondents 1 and 2 from recovering the Difference in pay to the petitioner without providing opportunity of hearing to the petitioner.

For Petitioners : Mr.S.Rajasekar

For Respondents : Mr.D.Sachi Kumar
Additional Government Pleader

ORDER

Through the impugned proceedings dated 15.10.2020, issued by the second respondent ordering to recover the amount of Rs.29,696/- each from the petitioner and certain other similarly placed employees on the ground that their pay was wrongly fixed at higher level during the period from 01.10.2017 to 30.09.2020 being the excess amount paid to the petitioner in equal monthly instalments.



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2. On perusal of the impugned order as well as from the counter affidavit, there is nothing to indicate that the petitioner was put on notice prior to issuance of the said proceedings. Further, it is also not the case of the respondents that the said excess payment was made to the petitioner because of any misrepresentation or fraud played by the petitioner herein. Further, the petitioner is also claiming to be an employee belongs to Group-D (Class-IV) service and therefore, no recovery can be effected. If the excess payment is because of the mistake committed by the respondents themselves, according to the learned counsel for the petitioner recovery of the same is contrary to the decision of the Hon'ble Apex Court reported in **2015 (4) SCC 334 [State of Punjab v. Rafi Masiq]**. It is also the contention of the learned counsel for the petitioner that the petitioner is neither put on notice before issuing the impugned proceedings nor given any opportunity.

3. As already noted above, the petitioner is not afforded with any opportunity before issuing the impugned proceedings whereby certain amounts are directed to be recovered from the salary of the petitioner in equal



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monthly instalments. In such circumstances, this Court is of the considered view that the impugned order cannot be sustained for want of compliance of principles of natural justice.

4. Hence, the impugned order issued by the second respondent in Na.Ka.No.1996/Aa1/2020 dated 15.10.2020, is set aside insofar as the petitioner is concerned, to the extent of ordering the recovery alone. The second respondent is at liberty to take appropriate action in this regard, in accordance with law by duly complying with the principles of natural justice. Accordingly, this writ petition stands allowed to the extent indicated above. No Costs. Consequently, connected miscellaneous petitions are closed.

21.03.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes
PJJ



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To

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Egmore, Chennai.

2. The District Officer,
The Tamil Nadu Fire and Rescue Department,
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MUMMINENI SUDHEER KUMAR, J.

PJL

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