



W.A.(MD)No.509 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A.(MD)No.509 of 2024

and

C.M.P.(MD)No.4058 of 2024

1.The Commissioner,
Madurai Corporation,
Arignar Anna Maligai,
Madurai District.

2.The Assistant Commissioner (Accounts),
O/o. the Assistant Commissioner Office,
Madurai Corporation,
Arignar Anna Maligai,
Madurai District.

: Appellants

Vs.

1.A.Rajangam

2.The Director of Municipal Administration,
Chepauk,
Chennai – 5.



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3.The Deputy Director,

Local Fund Audit,

Madurai Corporation Audit,

Arignar Anna Maligai,

Madurai – 2.

: Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order passed by this Court in W.P.(MD)No. 23826 of 2016 dated 23.08.2022 and allow the Writ Appeal.

For Appellant : Mr.K.Sivabalan

For Respondent No.1 : Mr.Navaz Khan

for M/s.Ajmal Associates

For Respondents 2&3 : Mr.T.Amjad Khan

Government Advocate

JUDGMENT

[Judgment of the Court was delivered by **D.KRISHNAKUMAR, J.**]

The appellant Corporation has preferred the intra Court appeal against the order of the writ court in W.P.(MD)No.23826 of 2016 dated 23.08.2022.

2.The first respondent / writ petitioner was appointed as Motor Attender on temporary basis in the year 1969. Subsequently his service was regularised on 01.10.1979 and he attained the age



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of superannuation on 30.06.2012. According to the service record, the respondent / writ petitioner's date of birth has been wrongly entered as 01.07.1952, instead of 01.07.1951. After the verification, said mistake has been found by the appellant Corporation. Therefore, recovery orders have been passed by the appellant Corporation as against the respondent / writ petitioner and the said amount has been recovered from the gratuity amount. For the aforesaid period, whether the respondent / writ petitioner has mistakenly worked as a Motor Attender was under challenge in the aforesaid writ petition and following the decision of the Hon'ble Supreme Court in ***State of Punjab and others Vs. Rafiq Masih [White Washer]*** reported in ***(2015) 4 SCC 334***, the learned Writ Court came to the conclusion that the respondent / writ petitioner comes under 'D' category and therefore, the said amount cannot be recovered from the petitioner. Hence, the order of recovery was set aside and the learned Single Judge directed the appellant / Corporation to refund the said amount of Rs.2,00,000/- recovered from the respondent / writ petitioner with 12% interest from the date of recovery.

3. At this juncture, learned Counsel for the appellant Corporation would submit that pursuant to the order of the learned Writ Court, on 20.04.2023, a cheque for a sum of Rs.2,23,479/- has



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been issued to the respondent / writ petitioner. The present Writ Appeal has been preferred only with regard to the interest portion of the order of the learned Single Judge in the Writ Petition.

4.This Court is of the view that a reasonable interest can be fixed, considering the financial crisis of the appellant Corporation and we are inclined to modify the order of the learned Single Judge, only with regard to the interest portion. Therefore, we modify the interest from 12% to 6%, from the date of recovery till the said amount was paid to the respondent / writ petitioner. The said interest amount shall be paid by the appellant Corporation to the respondent / writ petitioner within a period of six [6] weeks from the date of receipt of a copy of this order.

5.Accordingly, this Writ Appeal stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[D.K.K.J.] & [R.V.J.]

28.03.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



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To

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Madurai – 2.



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and
R.VIJAYAKUMAR, J.

MR

ORDER MADE IN
W.A.(MD)No.509 of 2024

28.03.2024