



W.P.(MD).No.19295 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.19295 of 2024

and

W.M.P(MD) Nos.16356 and 16357 of 2024

K.Kanagasabapathy

... Petitioner

Vs

1. The Revenue Divisional Officer,
Devakottai Division,
Sivagangai District.

2. The Treasury Officer,
District Treasury,
Sivagangai.

3. The Assistant Treasury Officer,
Thirupathur,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent i.e., the Revenue Divisional Officer, Devakottai in his proceedings in Na.Ka.No.1594/A2/2024 dated 15.05.2024 and quash the same and consequently direct the third respondent i.e., the Assistant Treasury Officer, Thirupathur to refund the recovery already



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effected in the months of May, June and July, 2024 within a prescribed time frame that may be fixed by the Hon'ble Court.

For Petitioner : Mr.S.Visvalingam,

For Respondents : Mr. A.Baskaran,
Additional Government Pleader

ORDER

The instant Writ Petition has been filed by a retired Village Administrative Officer, challenging the order of recovery passed by the Revenue Divisional Officer, on the ground that excess House Rent Allowance was paid to the petitioner, while he was in service.

2. A perusal of the impugned order reveals that at the instance of the petitioner, the respective Tahsildar has disbursed the excess House Rent Allowance to the writ petitioner and the excess amount is sought to be recovered. In the impugned order, there is no reference about the period during which the alleged excess House Rent Allowance has been disbursed to the writ petitioner. The impugned order is also vague with regard to the applicability of the relevant Government Orders for payment of House Rent Allowance to the Village Administrative Officers.



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3. The petitioner herein had retired 12 years prior to the passing of the impugned order. There is no allegation in the impugned order that the excess House Rent Allowance was paid to the writ petitioner due to the misrepresentation made by him. Since no Government Orders have been referred to in the impugned order relating to the disbursement of House Rent Allowance, this Court is not in a position to arrive at a finding whether at all any excess House Rent Allowance was paid to the writ petitioner.

4. In such circumstances, the petitioner, having retired 12 years back and the recovery is sought to be made after the retirement, this Court is of the considered opinion that the judgment of the Hon'ble Supreme Court reported in *(2015) 4 SCC 334* in the case of *(State of Punjab and other Vs. Rafiq (white washer) and others)*, is squarely applicable to the facts of the present case.

5. This Hon'ble Court, in a batch of 68 cases, by way of separate orders on 11.06.2024 has allowed similar writ petitions with a direction to refund the amount, if any already recovered.



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6. Considering the above said facts, the order impugned in the writ petition is set aside and in case, if any recovery has already been made, the respondents herein are directed to refund the same, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above said observations, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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2. The Treasury Officer,
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Sivagangai.
3. The Assistant Treasury Officer,
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R.VIJAYAKUMAR,J.

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