BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.14745 of 2018
and
W.M.P.(MD).Nos.13281, 13282 & 21883 of 2018

P.Arulanandam ... Petitioner

Vs.

1.The Principal Secretary to Government,
Finance (Pay Cell) Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.

2.The Director of Town Panchayat,
Kuralagam,
Chennai - 600 108.

3.The Director of Local Fund Audit,
Integrated Finance Dept. Building,
4th Floor, Behind Veterinary Hospital,
Nandanam, Chennai - 600 035.

4.The Assistant Director of Town Panchayats,
Dindigul,
Dindigul District.

5.The Executive Officer,
Agaram Town Panchayat,
Dindigul District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the fifth respondent in Na.Ka.No.91/2018, dated 02.07.2018, quash the same and consequently forbearing the respondents herein from recovering any amount from petitioner contrary to G.O.Ms.No.338, dated 26.08.2010 and the proceedings of the second respondent in Na.Ka.No. 21256/2012/A3, dated 10.06.2013.

For Petitioner : Mr.K.Appadurai

For Respondents : Mr.S.Kameswaran
Government Advocate

<u>O R D E R</u>

This Writ Petition has been filed challenging the impugned order dated 02.07.2018 passed by the fifth respondent seeking recovery of the amount mentioned therein from the petitioner on the ground that excess payments were made earlier to the petitioner, who was working as an Over Head Tank Operator under the fifth respondent.

2. The petitioner has challenged the impugned order on the ground of violation of the principles of natural justice. According to the petitioner, he is working as an Over Head Tank Operator, which is an unskilled post under other trade posts and as per the clarification issued by the second respondent in his proceedings dated 10.06.2013 and annexure enclosed therewith, the revised pay scale drawn by the petitioner is not at all an excess payment. However, according to the petitioner, based on an alleged audit objection, the respondents, without issuing any notice to the petitioner has passed the impugned order in violation of the principles of natural justice.

3. A counter affidavit has been filed by the third respondent denying the contentions of the petitioner.

4. The petitioner has also categorically contended in this Writ Petition that only as per G.O.(Ms).No.338, Finance (PC) Department, dated 26.08.2010, his pay has been revised and the said Government Order is applicable for skilled / unskilled workers coming under the category of other trade posts. According to the petitioner, he being an unskilled worker coming under the category of other trade posts, he is entitled to draw the said revised pay scale and there cannot be any scope for audit objection. The petitioner also claims that subsequent to the aforesaid Government Order, a clarification has also been issued by the second respondent in his proceedings dated 10.06.2013 and the annexure enclosed therewith makes it clear that the revision of pay scale drawn by the petitioner is not at all an excess payment. However, as seen from the impugned order, G.O.(Ms).No.338, Finance (PC) Department, dated 26.08.2010 as well as the clarification issued by the first respondent, dated 14.10.2010 and subsequent clarification issued by the second respondent, dated 10.06.2013 have not been considered and the impugned orders also have been passed without issuing any prior show cause notice to the petitioner calling for an explanation from him. Only based on the audit objection and without putting the petitioner on notice, the impugned order came to be passed which is in the form of recovery order recovering certain amount mentioned therein from the petitioner which according to the respondents is an excess payment made to the petitioner. The contentions of the petitioner as raised in this Writ Petition have not been considered in the impugned order and the impugned order has been passed by by violating the principles of natural justice.

5. In view of the same, the impugned order dated 02.07.2018, passed by the fifth respondent has to be necessarily quashed and the matter will have to be remanded back to the fifth respondent for fresh consideration on merits and in accordance with law after giving due consideration to the contentions raised by the petitioner in this Writ Petition.

6. In the result, the impugned order dated 02.07.2018 passed by the fifth respondent is hereby quashed and the matter is remanded back to the fifth respondent for fresh consideration on merits and in accordance with law. The fifth respondent is directed to pass final orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order after giving due consideration to G.O.(Ms).No.338, Finance (PC) Department, dated 26.08.2010 and the proceedings of the second respondent dated 10.06.2013 as well as the clarification letter dated 14.10.2010 issued by the first respondent.

7. With the aforesaid direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

04.09.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG

To

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Dindigul District.

5.The Executive Officer,
Agaram Town Panchayat,
Dindigul District.

ABDUL QUDDHOSE, J.

TSG

W.P.(MD)No.14745 of 2018

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