



W.P.(MD)No.8330 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2025

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD) No.8330 of 2017

P.Radhakrishnan

... Petitioner

VS.

1.Appointment Committee,
rep by its President,
Madurai Corporation Office,
Arignar Anna Maligai,
Madurai.

2.The Commissioner,
Madurai Municipal Corporation,
Corporation Office,
Arignar Anna Maligai,
Madurai.

3.The Assistant Commissioner,
Madurai Corporation Office,
Arignar Anna Maligai,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the



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records, pertaining to the impugned order passed by the 2nd respondent dated 21.03.2017 in Ma.Ni/10/012524/2015 and quash the same and consequential direct the 2nd respondents to pay Rs.1,65,162/- illegally withheld from the petitioner's gratuity with interest at the rate of 12% per annum within the time frame by this Court.

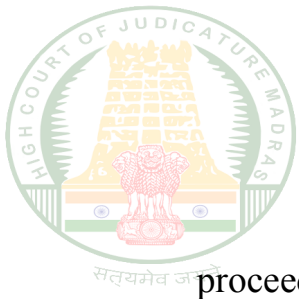
For Petitioner : Mr.G.Mohan Kumar

For Respondents : Mr.S.Vinayak
Standing Counsel

ORDER

The present writ petition is filed for a Writ of Certiorarified Mandamus to quash the impugned order dated 21.03.2017 and consequently, to direct the respondents to repay a sum of Rs.1,65,162/- illegally withheld from the petitioner's gratuity with interest at the rate of 12% per annum.

2.1. The petitioner was working as a Revenue Assistant in the second respondent Municipality. He has put up 34 years of service and attained superannuation on 31.07.2011. Just before one week of his superannuation, the petitioner was placed under suspension, vide

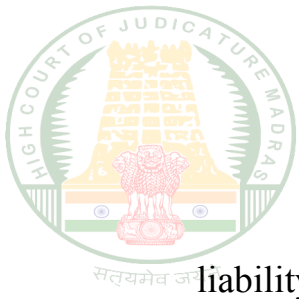


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proceedings dated 22.07.2011 for the alleged monetary irregularities. The petitioner was retained, vide order dated 30.07.2011, and was not permitted to retire.

2.2. A charge memo dated 13.02.2012 was issued to the petitioner, alleging that the revenue collected at Sammattipuram computer counter between 28.01.2010 and 02.02.2011 for a period of 46 days to the tune of Rs.1,55,162/- was not credited in the Corporation Account. The other Revenue Assistants were also issued with a charge memo for the very same charge. The petitioner has submitted his explanation on 29.03.2012, stating that Sammattipuram Computer Counter consists of 4 wards and 4 Revenue Assistants are working, namely Jayaraman, Kathirasan, Soughar Batcha and P.Radhakrishnan, the petitioner. The said counter was attended by one Revenue Assistant for 2 days in a cycle and the other 3 would go to field collection, as per the oral instructions issued by the corporation. Hence, any enquiry should include all the 4 employees. The petitioner offered to pay his share amount, since he is at the verge of retirement, but the respondents had conducted an enquiry. By considering the offer, the entire



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liability is fastened on the petitioner. Over and above, the respondents had imposed penalty of Rs.10,000/-. Since the same was not paid, again one more penalty of Rs.10,000/- was imposed. Therefore, totally a sum of Rs. 1,55,162/- +10,000/- + 10,000/- was recovered from the petitioner's gratuity amount. Aggrieved over the same, the present writ petition is filed.

3.1. The respondents have filed a counter stating that the petitioner was working as Bill Collector and he was not allowed to retire based on the order dated 30.07.2011. On 22.07.2011, the petitioner was suspended from service for the allegation of misappropriation of Rs.1,55,162/-, which was collected during the period from 28.01.2010 to 01.02.2011. Thereafter, the charge memo was issued and an enquiry was conducted. Charges were held to be proved and the petitioner was directed to repay the said amount along with fine of Rs.10,000/-.

3.2. In another disciplinary proceedings dated 28.07.2014, the petitioner was found guilty and he was directed to pay a fine of Rs.10,000/- Therefore, the respondents deducted a sum of Rs.1,75,162/- from DCRG.



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There is no delay in conducting the appeal. After enquiry was conducted, the petitioner was allowed to retire. When the petitioner has misappropriated the amount, the said amount is collected as per law. Therefore, the respondents prayed to dismiss this writ petition.

4. After considering the rival submissions, this Court directed the respondents to produce the files regarding the disciplinary proceedings initiated against the other 3 Revenue Assistants. In spite of two opportunities, the respondents failed to produce any file or indicate the status of the disciplinary proceedings regarding the other 3 Revenue Assistants.

5. When the 4 Revenue Assistants were handling the said counter, the respondents ought to have initiated proceedings against all the persons. When the respondents failed to conclude the other proceedings, then the petitioner alone cannot be responsible for the said amount. Since the enquiry itself is a biased one, then the same ought to be interfered with.



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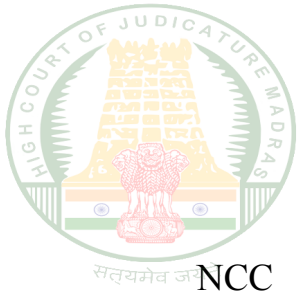
6. Normally the case has to be remitted back to the respondents. Since in the present case, the petitioner attained superannuation, it will be futile attempt to remit the case back to the respondents.

7. Therefore, this Court is inclined to set aside the penalty of Rs. 10,000/- imposed in the present disciplinary proceedings and another Rs. 10,000/- in the proceedings dated 28.07.2014. As far as the amount of Rs. 1,55,162/- is concerned, the respondents are directed to collect the petitioner's share alone. In effect, the petitioner is liable to pay a sum of Rs.38,790/- alone. The balance amount shall be repaid to the petitioner by the respondents along with interest at the rate of 6% per annum, within a period of six weeks from the date of receipt of a copy of this order.

8. With the aforesaid directions, the Writ Petition stands disposed of.
No costs.

Index :Yes / No
Internet :Yes / No

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NCC :Yes / No
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S.SRIMATHY, J.

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