



W.P.(MD).No.23845 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2025

CORAM:

THE HONOURABLE **MR.JUSTICE VIVEK KUMAR SINGH**

W.P.(MD)No.23845 of 2024
and
W.M.P.(MD)No.20189 of 2024

A.Thanukkodi

... Petitioner

-VS-

1. The Government of Tamil Nadu,
Represented by its Secretary,
Finance Department,
Fort St. George,
Chennai - 600 009.
2. The Director of Town Panchayats,
No.5, Santhome High Road,
Pattinapakkam,
MRC Nagar, Raja Annamalai Puram,
Chennai - 600 004.
3. The Assistant Director – II,
Local Fund Audit,
Pudukkottai,
Pudukkottai District.
4. The Executive Officer,
Keeramangalam Town Panchayat,
Alangudi Taluk,
Pudukkottai District.

... Respondents



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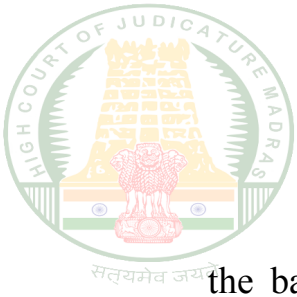
PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the impugned para 34 of audit objections in letter Na.Ka.No.261/A1/2024 dated 31.05.2024 issued by the 3rd respondent for recovery of Rs.1,27,326/- (One Lakh Twenty Seven Thousand Three Hundred and Twenty Six only) and quash the same and consequently direct the respondents to grant the petitioner's retirement benefits i.e., Earned Leave (240 days), Un-earned Leave (180 days), Special Provident Fund and Contributory Pensions etc., on the basis of pay fixation done as per G.O.Ms.No.340 Finance Department dated 26.08.2010 together with interest at the rate of 24 % p.a. From 01.05.2024 till the date of realization.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.S.R.A.Ramachandhran (R1 to R3)
Additional Government Pleader

ORDER

This writ petition has been filed challenging the audit objections in Na.Ka.No.261/A1/2024 dated 31.05.2024 issued by the 3rd respondent for recovery of Rs.1,27,326/- (One Lakh Twenty Seven Thousand Three Hundred and Twenty Six only) and also to direct the respondents to grant the petitioner's retirement benefits i.e., Earned Leave (240 days), Un-earned Leave (180 days), Special Provident Fund and Contributory Pensions etc., on



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the basis of pay fixation done as per G.O.Ms.No.340 Finance Department dated 26.08.2010 together with interest at the rate of 24 % p.a., from 01.05.2024 till the date of realization.

2. Heard the learned counsel on both sides and perused the materials placed before this Court.

3. The petitioner was appointed as 'Bill Collector' and thereafter, he was promoted to the post of 'Junior Assistant' and he attained superannuation on 30.04.2024 from the office of the fourth respondent. After his retirement, the impugned order dated 31.05.2024 has been passed raising audit objections for recovery of Rs.1,27,326/- (One Lakh Twenty Seven Thousand Three Hundred and Twenty Six only) by the petitioner stating that the petitioner has been paid the excess amount from 01.08.2010 to 29.02.2024. Therefore, challenging the same, the petitioner has filed the present Writ Petition with the aforesaid prayer.

4. The learned counsel appearing for the petitioner relied upon the judgment of this Court in **WP.No.6945 of 2022** dated **26.06.2023**, wherein, this Court has held as follows:-



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“6. Above all, the Hon'ble Supreme Court in the case of 'State of Punjab Vs. Rafiq Masih (White Washer)' reported in '(2015) 4 SCC 334', has held that recovery of any excess payment made, owing to the mistake of the Department for over a period of 5 years, cannot be made. Since the respondents have sought to make recovery from August 2010 onwards, the same is impermissible in law.

7. For all the foregoing reasons, in case the respondents have recovered any amount pursuant to the impugned order dated 21.12.2021, the same shall be forthwith return, in any event, within a period of two (2) weeks from the date of receipt of a copy of this order.”

Thus, the same would be applicable to the present case on hand. In the case on hand also, the respondents have sought to make recovery from August 2010 onwards, the same is impermissible in law.

5. For all the foregoing reasons, in case, the respondents have recovered any amount pursuant to the impugned order dated 31.05.2024, the same shall be forthwith refunded, in any event, within a period of two weeks from the date of receipt of a copy of this order. The respondents are also directed to pass appropriate orders on merits and in accordance with law, for granting the retirement benefits due and payable to the petitioner, within a period of two months from the date of receipt of a copy of this order.



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6. With the above directions, this writ petition stands disposed of.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

03.07.2025

NCC : Yes/No
Index : Yes / No
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TO:-

1. The Secretary,
Finance Department,
Fort St. George,
Chennai - 600 009.
2. The Director of Town Panchayats,
No.5, Santhome High Road,
Pattinapakkam,
MRC Nagar, Raja Annamalai Puram,
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VIVEK KUMAR SINGH, J.

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Order made in
W.P.(MD)No.23845 of 2024

Dated:
03.07.2025