

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P. NO.33194 OF 2015
& M.P.NO.1 OF 2015

M.Thirukkaivel

.. Petitioner

Versus

1. The Secretary to Government,
Finance Department,
Fort St.George, Chennai - 600 009.

2. The District Treasury Officer,
Krishnagiri - 635 002.

.. Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the records connected with the proceedings issued in Se.Mu.Na.Ka.3893/2015/A4 dated 21.09.2015 passed by the second respondent and quash the same.

For Petitioner : Mr.S.Ilamvaludhi

For Respondents : Mr.N.Srinivasan
Additional Government Pleader

O R D E R

By consent, the Writ Petition is taken up for final disposal.

2. The petitioner has retired from the service as Tahsildar in Krishnagiri District on 30.06.2005 and at that time of retirement, he was in the time scale of Rs.9300-34800 with the grade pay of Rs.4900 and his pension was fixed accordingly. It is stated by the petitioner that the Government vide G.O.Ms.No.71, Finance [Pay Cell] Department dated 26.02.2011, ordered implementation of the recommendation of the pay grievance redressal cell and accordingly the scale for the post of Tahsildar was revised and refixed in the revised scale of pay of Rs.15600-39100 with the grade pay of Rs.5,100/- in terms of G.O.Ms.No.71 of the same Department dated 26.02.2011 and accordingly, his pension has been fixed. However, the second respondent has issued a notice dated 21.09.2015 stating among other things, the pension payable was subject to audit and found

to be not correct. Therefore, a decision has been taken to recover a sum of Rs.26,774/- and therefore, calling upon him to meet the said official in person and it was followed by the impugned order passed on the very same day ordering recovering of Rs.26,774/- and the pension was also refixed. Challenging the legality of the said order, the petitioner came forward to file this writ petition.

3. Learned counsel appearing for the petitioner would submit that the alleged show cause notice issued by the second respondent dated 21.09.2015 is a standardized format and there is no calculation and no reasons whatsoever have been assigned for effecting the said recovery and curiously, the said impugned order of recovery came to be passed on the very same day itself and admittedly, no proper opportunity has been afforded to the petitioner and hence prays for interference.

4. This Court heard the submissions of Mr.N.Srinivasan, learned Additional Government Pleader, who accepts notice on behalf of the respondents 1 and 2.

5. As rightly contended by the learned counsel for the petitioner, the impugned show cause notice as well as the impugned order came to be passed on one and the same day, i.e., 21.09.2015 and no reasons whatsoever have been assigned, so also the memo of calculation. In the considered opinion of the Court, no proper or sufficient opportunity has been afforded to the petitioner before issuing impugned order of recovery as well as refixing the pension and on this sole ground, the impugned order warrants interference.

6. In the result, the Writ Petition is partly allowed and the impugned order dated 21.09.2015 is set aside and the second respondent is directed to issue a show cause notice containing the relevant particulars, within a period of two weeks from the date of receipt of a copy of this order and the petitioner, on receipt of the said notice, is directed to offer his explanation within a further period of two weeks thereafter and the second respondent, on receipt of the said explanation, is directed to consider the same and pass orders on merits and in accordance with law within a further period of six weeks thereafter and communicate the decision taken, to the petitioner. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government,
Finance Department, Fort St.George,
Chennai - 600 009.

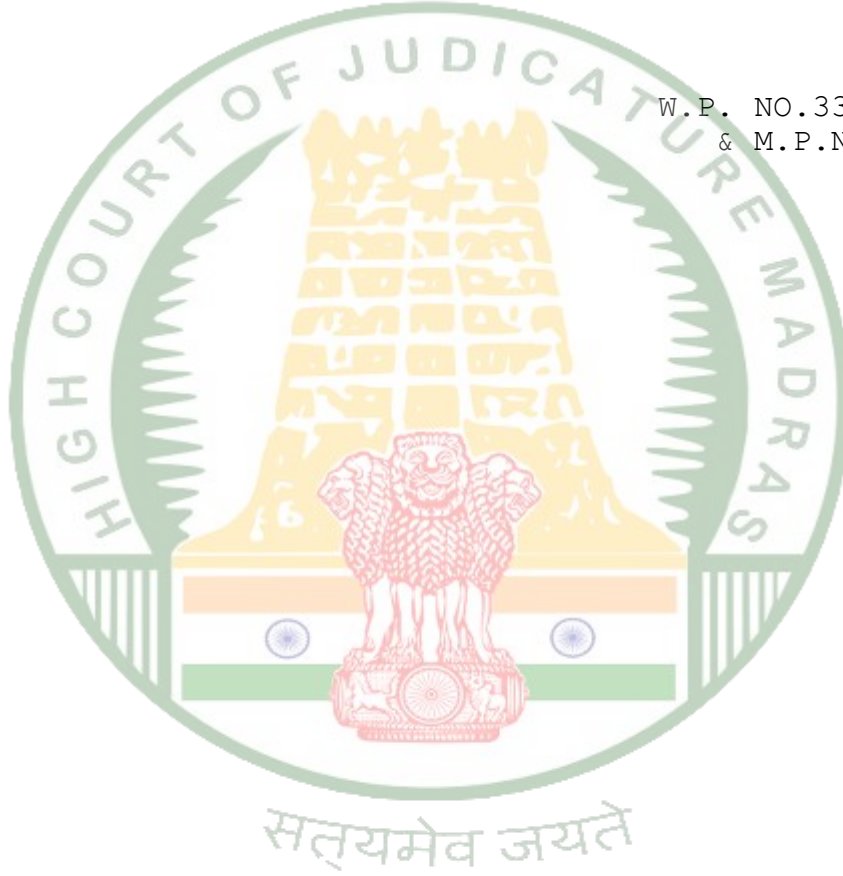
2. The District Treasury Officer,
Krishnagiri - 635 002.

+ 1 cc to Mr.S.Ilamvaludhi, Advocate SR 56922

+ 1 cc to Govt.Pleader SR 57560

vgi(co)
prk20/10

W.P. NO.33194 OF 2015
& M.P.NO.1 OF 2015



WEB COPY