

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.6938 of 2015

and

M.P.Nos.1 to 3 of 2015

R.Govind

...

Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Finance (Pension) Department,
Fort St. George,
Chennai 600 009.

2. The Director,
Treasury & Accounts Department,
Chennai.

3. The Additional Treasury Officer,
Office of the Collectorate,
Salem 1.

..

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records of the third respondent in his Proceeding No.Se.Mu.Tha.Ka.No.1302/F1/2015, dated 24.02.2015 and quash the same and consequently, direct the second and third respondents herein to pay monthly pension of Rs.25,300/- (Rupees twenty five thousand three hundred only) per month from February 2015 continuously without any reduction.

For Petitioner : Mr.N.Kolandaivelu

For Respondents : Mr.V.Jayaprakash Narayanan
Special Govt. Pleader

ORDER

By consent, the writ petition is taken up for final disposal.

2. This writ petition is filed challenging the order passed by the third respondent, to recover the excess payment of pension of Rs.2,42,172/- made between 01.01.2011 and 31.01.2015.

3. The petitioner mainly contended that the impugned order of recovery of alleged excess payment was passed without issuing notice and without giving any opportunity to explain his case. Therefore, it is in violation of principles of natural justice.

4. The learned Special Government Pleader appearing for the respondents would contend that as per G.O.Ms.No.42, Finance (Pension) Department dated 07.02.2011, the petitioner is not entitled for the amount received and therefore, the impugned order was passed to recover the excess payment made to him.

5. Heard the submissions of Mr.N.Kolandaivelu, learned counsel appearing for the petitioner and Mr.V.Subbiah, learned Special Government Pleader appearing for the respondents.

6. It is settled law that before proceeding to recover the alleged excess payment, the authorities shall serve notice on the employees and after giving an opportunity of being heard, they can pass orders. It is not in dispute that the third respondent has passed the impugned order without affording an opportunity to the petitioner to explain his case.

7. In such view of the matter, the impugned order is set aside. However, liberty is given to the third respondent to pass orders in accordance with law.

8. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Secretary,
Government of Tamil Nadu,
Finance (Pension) Department,
Fort St. George,
Chennai 600 009.

2. The Director,
Treasury & Accounts Department,
Chennai.

3. The Additional Treasury Officer,
Office of the Collectorate,
Salem 1.

+1 cc to Mr.N.Kolandaivelu Advocate sr.62917

+1 cc to Government Pleader sr.62945

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