



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated :07.08.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

WP (MD) No.13875 of 2015

and

M.P. (MD) No.1 of 2015

K.Kalimuthu

.. Petitioner

Vs.

1.The Accountant General (A&E) Tamil Nadu,
361, Anna Salai,
Chennai-600 018.

2.The Assistant Treasury Officer,
Sub-Treasury, Srivilliputhur,
Virudhunagar District.

.. Respondents

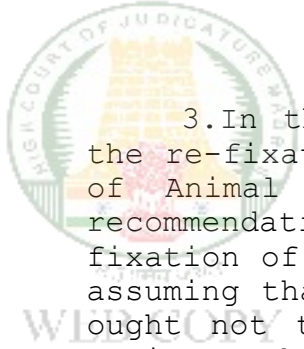
PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the second respondent i.e., the Assistant Treasury Officer, Sub-Treasury, Srivilliputhur relating to L.Dis.1220/15/A1 dated 24.07.2015 and quash the same.

For Petitioner	:	Mr.S.Visvalingham
For Respondents	:	Mr.P.Gunasekaran for R.1
	:	Mr.S.Sathish Kumar Additional Government Pleader

ORDER

This writ petition has been filed by K.Kalimuthu challenging the impugned order of recovery dated 24.07.2015 in and by which, the petitioner has been informed that he would be paid monthly pension of Rs.9,410/- instead of Rs.10,500/-. That apart, Paragraph No.2 of the impugned order also shows that Rs.10,633/- alone has been deducted from the month of June 2015.

2.The learned Counsel appearing for the petitioner, by placing two submissions, heavily attacked the impugned order of recovery. Firstly, the petitioner, after retirement from service on 30.04.2002, has been receiving monthly pension of Rs.9,410/-. Subsequently, on issuance of G.O.Ms.No.235 Finance (Pay Cell) Department, dated 01.06.2009, his monthly pension has been refixed from Rs.9,410/- to Rs.10,500/- with effect from 01.01.2011. All along, he has been getting monthly pension of Rs.10,500/- per month. But all of a sudden, the Assistant Treasury Officer, Srivilliputhur issued a letter bearing R.C.No.1605-2015-A1, dated 19.05.2015 directing the petitioner to remit a sum of Rs.1,02,348/- on the ground that the Accountant General, Chennai has objected the re-fixation of his pension from Rs.9,410/- to Rs.10,500/-.



3. In this background, the grievance of the petitioner is that when the re-fixation of his monthly pension was done by the Assistant Director of Animal Husbandry, Srivilliputhur in the year 2011 as per the recommendations of the Official Committee on pay revision, the re-fixation of his monthly pension in the year 2011 is perfectly done. Even assuming that it is wrong, the Assistant Treasury Officer, Srivilliputhur ought not to have issued the impugned order without issuing any prior notice and suddenly re-fixed his monthly pension at Rs.9,410/-. He would further submit that when the petitioner retired from service before 13 years i.e., on 30.04.2002 and subsequently, when he has been receiving the monthly pension of Rs.10,500/-, all of a sudden, reducing his monthly pension to Rs.9,410/- and then directing the petitioner to remit a sum of Rs.1,02,348/- is wholly without jurisdiction.

4. In support of the contention of the learned Counsel for the petitioner, the learned Counsel appearing for the Accountant General also submitted that it is a well settled legal position that after the retirement of the Government servant, a recovery from monthly pension, without there being any notice is unknown to law. Therefore, notice ought to have been issued, which has not been done.

5. The learned Government Advocate appearing for the second respondent submitted that this is a case where the petitioner has already been put on notice by communication dated 19.05.2015. Therefore, it is not open to the petitioner to say that he was not put on notice before issuing the impugned notice. Further she would submit that when the petitioner was also directed to remit a sum of Rs.1,02,348/- on the ground that the Accountant General, Chennai had objected the re-fixation of his monthly pension from Rs.9,410/- to Rs.10,500/-, that order has not been challenged. Therefore it is not open to the petitioner to come to this Court by challenging the impugned order of the second respondent.

6. This Court finds no justification for the second respondent to reduce the monthly pension from Rs.10,500/- to Rs.9,410/- without there being any specific notice calling upon the petitioner to submit his explanation. The reason is even the letter dated 19.05.2015 directing the petitioner to remit a sum of Rs.1,02,348/- issued by the Assistant Treasury Officer, Srivilliputhur does not speak about any explanation to be submitted by the petitioner. Therefore, this Court is inclined to set aside the same on the ground that no notice was issued calling upon the petitioner to submit the explanation as to why the monthly pension of Rs.10,500/- should be reduced to Rs.9,410/-. Accordingly, the same is set aside. The second respondent is directed to issue prior notice to the petitioner and after receiving any objection or reply if any from the petitioner, the second respondent shall pass appropriate orders. It is needless to mention that only after passing of final order, it is open to the second respondent to make any further reduction.

7. Accordingly, this writ petition is disposed of. No costs. Connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (AS)

/True Copy/



To

1.The Accountant General (A&E) Tamil Nadu, 361, Anna Salai, Chennai-600 018.

2.The Assistant Treasury Officer, Sub-Treasury, Srivilliputhur,
Virudhunagar District.

1CC to Mr.S.Visvalingam, Advocate, SR.No.44747

1CC to M/s.P.Gunasekaran, Advocate, SR.NO.44829

1CC to The Special Government Pleader, SR.No.45191

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AM/AN.MP/SAR-II/27.08.2015.