

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.01.2016

Coram :

The Hon'ble Mr.Justice K.KALYANASUNDARAM

W.P.No.33956 of 2015
and M.P.Nos.1 & 2 of 2015

S.Santhi

... Petitioner

vs

1.The Additional Assistant Elementary
Educational Officer,
Mayiladuthurai,
Nagapattinam District.

2.The Assistant Treasury Officer,
Kutchery Road,
Mayiladuthurai,
Nagapattinam District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issue of writ of certiorarified mandamus calling for the entire records of the second respondent ending with the order in Proc.Pd1.No.252/2015/A3 dated 27.02.2015 and quash the same and direct the second respondent to pay the family pension fixed as per the earlier order passed i n 2012 including the repayment of the illegal recovery from the petitioner.

For Petitioner : Mr.J.Jayabalan

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

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O R D E R

By consent, this writ petition is taken up for disposal at the admission stage itself.

2. The impugned order is challenged mainly on the ground that before passing the order, the petitioner was not put on notice and no personal hearing was given.

3. Mr.V.Jayaprakash Narayanan, learned Special Government Pleader submitted that as per G.O.Ms.No.29 Finance Department (Pension) dated 31.01.2013, the petitioner is entitled for a minimum family pension of Rs.3,050/- however excess payments were made to the petitioner without considering the Government Order and therefore the impugned order has been passed which does not warrant any interference by this Court.

4. It is not in dispute that the impugned order came to be passed without affording any opportunity to the petitioner whereby and whereunder the respondent ordered recovery of Rs.2,27,249/- alleged to have made excess pension. Admittedly, the impugned order involves civil consequences and therefore the petitioner ought to have been given opportunity before passing the order. In such view of the matter, the impugned order is liable to be set aside and it is accordingly set aside, giving liberty to the respondents to pass an order afresh, after giving personal hearing to the petitioner, in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

rgr

To

1.The Additional Assistant Elementary Educational Officer,
Mayiladuthurai,
Nagapattinam District.

2.The Assistant Treasury Officer,
Kutchery Road,
Mayiladuthurai,
Nagapattinam District.

1 cc to Government Pleader, Sr. 238
1 cc to Mr.J. Jayabalan, Advocate, Sr. 206

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