



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD) .No.12164 of 2016

and

W.M.P. (MD) .No.9261 of 2016

P.Jayaraj

... Petitioner

Vs

1.The Director of Local Fund Audit,
Kuralagam, 4th Floor, Chennai-600 108.

2.The Assistant Director,
Municipal Pension Distribution Branch,
Local Fund Audit Department,
Kuralagam, 4th Floor, Chennai-600 108. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari calling records of the 2nd respondent i.e.the Assistant Director of Local Fund Audit, Chennai relating to O.Mu.No.12057/Na.O.Va.(1)/2016 Dated : 14.06.2016 and quash the same.

For petitioner : M/s.S.Visvalingam
For Respondents : Mr.G.Muthukannan
Government Advocate

ORDER

Mr.P.Jeyaraj, aged about 75 years, after serving as Accountant, Municipal, Office, retired from his service on 31.05.2000, challenges the impugned order on the ground that before passing the impugned order the petitioner was not put on notice.

2. His grievance is that after 16 years of his retirement, the second respondent, has issued the present impugned order stating that he has been paid with excess pension from 31.05.2000 to 31.05.2016 and that it has been decided to recover a total sum of Rs.1,12,347/- from his monthly pension and accordingly, a sum of Rs.8,347/- was recovered from the month of June,2016. Challenging the said action, the petitioner is before this Court.



3. Learned counsel for the petitioner fairly conceded that the second respondent shall issue a notice to the petitioner and after getting his explanation, he shall pass appropriate orders, in accordance with law. He further submitted that in any event even if the second respondent has paid excess pension, the second respondent cannot make any recovery from the petitioner's pension amount, as per the judgment reported in (2014) 8 MLJ 385, *Special Officer Vs. S.Kadiresan*, but the second respondent can refix the pension.

4. The learned Government Advocate was put on notice for the respondents.

5. In view of the narrow issue involved in this Writ Petition and admittedly, no notice was issued to the petitioner before passing the impugned order and the second respondent has straight away recovered a sum of Rs.8,347/- in his monthly pension for the month of June, 2016, and more particularly, there is no misrepresentation of facts on the part of the petitioner, this Court has no hesitation to quash the order impugned in this Writ Petition and accordingly, the order impugned in this Writ Petition stands set aside and liberty is granted to the second respondent to issue a fresh notice to the petitioner and on getting his explanation, the second respondent shall pass appropriate orders, on merits and in accordance with law and also keeping in mind the order already passed by a Division Bench of this Court reported in (2014) 8 MLJ 385, *Special Officer Vs. S.Kadiresan*.

6. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub-Assistant Registrar

To

1.The Director of Local Fund Audit,
Kuralagam, 4th Floor, Chennai-600 108.

2.The Assistant Director,
Municipal Pension Distribution Branch,
Local Fund Audit Department,
Kuralagam, 4th Floor, Chennai-600 108.

+One cc to Mr.S.Visvalingam, Advocate, SR.No.35890

+One cc to The Special Government Pleader, SR.No.35947

ssm

RL/5C/2P/GSV/PM/21/7/2016

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