



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**

W.P. (MD) .No.16520 of 2013

and

M.P. (MD) Nos.1 and 2 of 2013

K.Devaraj : Petitioner

Vs.

Tamil University,
Rep. by its Registrar,
Thanjavur-613 006. : Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 18.09.2013 issued by the respondent in Na.Ka.Aa1/001/2013 and quash the same and consequently, direct the respondent to settle the petitioner's entire terminal benefits and to pay the petitioner's monthly pension at the rate of Rs.15,485/- without any recovery.

For Petitioner : Mr.A.Rahul
For Respondent : Mr.M.Senthilkumar

ORDER

The petitioner was formerly a Special Grade Technical Assistant in Museum of Tamil University, Thanjavur. He retired from service on 30.04.2013. The Registrar of the University, by proceedings in Na.Ka.Aa1/001/2013, dated 18.09.2013, found that while he was in service, pay was fixed by mistake on the higher side and, therefore, he ordered for recovery of the excess amount paid. Challenging the said order of recovery, the petitioner has come up with this Writ Petition.

2. I have heard the learned counsel for the petitioner and the learned counsel for the respondent. I have also perused the records carefully.



3. It is too well settled that if the fixation of pay on the higher side by mistake was made not on any misrepresentation or false representation made by the individual, then, recovery cannot be made from him on his retirement, vide judgment of the Hon'ble Supreme Court in **Shyam Babu Verma v. Union of India** reported in **1994 (2) SCC 521**.

4. In view of the same, the impugned order is not sustainable.

5. In the result, the Writ Petition is allowed and the impugned order dated 18.09.2013, is set aside. It is further directed that if any amount has already been recovered in pursuance of the impugned order, the same shall be paid to the petitioner, within a period of six months from the date of receipt of a copy of this order. It is needless to say that the respondent is bound to settle the entire terminal benefits to the petitioner, if any, at the earliest. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

SML

To,

The Registrar, Tamil University,
Thanjavur - 613 006.

+1CC to Mr.M.Senthil Kumar, Advocate Sr.No.68410

CSL/SS2/21.12.16-2p-3C

Order made in

W.P. (MD) .No.16520 of 2013

Dated: 14.11.2016
(3/4)