IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.8.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH, ACJ
AND
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.A.No.1738 of 2018
and
C.M.P.No.13873 of 2018

1. The State of Tamil Nadu,
   rep. by its Secretary to Government,
   Finance Department,
   Fort St. George, Chennai-9.

2. The District Treasury Officer,
   District Treasury, Kancheepuram.

3. The Assistant Treasury Officer,
   Sub Treasury, Tambaram. ... Appellants

Versus

1. Smt.B.Gomathy

2. The Principal Accountant General (A&E),
   361, Anna Salai,
   Tamil Nadu, Chennai-18. ... Respondents

Prayer:

Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 11.3.2014 passed in W.P.No.13731 of 2013 on the file of this court. Praying to issue a writ of certiorarified Mandamus to call for the records of the respondent in Na.Ka.Sa.AA.No.555/12/A4, dated 27.06.2012 and quash the same with consequential direction to the respondents to repay the amount already recovered from the petitioner.

For appellants : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

For R1 : Mr.K.Jenitha

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, ACJ.)

Heard the learned Special Government Pleader appearing for the appellants and Ms.K.Jenitha, learned counsel, who takes notice on behalf of the first respondent/writ petitioner.

2. The writ appeal has been filed by the State challenging the order passed by the learned Single Judge in allowing the writ petition and thereby quashing the order impugned in the writ petition which sought to recover the excess pension paid to her.

3. It appears that the petitioner, being a retired Teacher was drawing pension under Pension Payment Order No.T82661 and also drawing family pension under Pension Payment Order No.TF84660 on account of death of her husband, who was also a retired Teacher and while regulating the DA in Service Pension as well as in Family Pension, a mistake is said to have taken place and therefore, the appellant seeks to recover the excess payment made to the tune of Rs.3,87,849/-.

4. In para 7 of the order, the learned Single Judge has observed that the impugned order is liable to be quashed not only on the ground that it was passed without hearing the writ petitioner, but also, on the ground that the writ petitioner is not responsible for erroneous revision in pension calculation and therefore, it cannot be recovered as per the well settled law.

5. We do not find any illegality or infirmity in the order passed by the learned Single Judge, especially, in the light of the principle laid down in STATE OF PUNJAB AND OTHERS v. RAFIQ MASIH (WHITEWASHER) ((2014) 8 SCC 883). In the circumstances, we are of the view that there is no scope for interference with the order passed by the learned Single Judge. Accordingly, the writ appeal is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Secretary to Government,
   The State of Tamil Nadu,
   Finance Department,
   Fort St. George, Chennai-9.

2. The District Treasury Officer,
   District Treasury, Kancheepuram.

3. The Assistant Treasury Officer,
   Sub Treasury, Tambaram.

4. The Principal Accountant General (A&E),
   361, Anna Salai,
   Tamil Nadu, Chennai-18.

+1cc to Government Pleader, in sr.no.56051

W.A.No.1738 of 2018

GKII(CO)
CS/11/10/2018