

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.10093 of 2018 and WMP Nos.12050 & 12051 of 2018

M.Vadivelu

... Petitioner

Vs.

1. The Government of India,
Department of Tele Communications,
Rep by its Senior Accounts Officer (Revision),
The Office of the Principal Controller of Communication
Accounts,
Tamil Nadu Circle,
Chennai 600 008.

2. The State Bank of India,
Rep by its Assistant General Manager,
Centralised Pension Processing Centre,
No.112/4, Kaliasman Koil Street,
Virugambakkam.
Chennai 600 002.

3. The Manager,
State Bank of India,
Peelamedu Branch,
Coimbatore.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus to call for the order on the file of the 2nd respondent relating to the impugned order in reference No. CPPC/REV/TELECOM/82668 dated 14.07.2017 and reference No.CPPC/REV/TELECOM/82668 dated 07.08.2017 and to quash the same and consequently direct the 2nd respondent to refund the amount recovered already to the petitioner with interest.

For Petitioner : Mr.A.Edwin Prabakar

For Respondents : Mr.K.Mariappan for R1
Mr.K.Chandrasekaran for R2 & R3

O R D E R

By consent, this writ petition is taken up for final disposal.

2.The case of the petitioner is that the petitioner is a senior citizen and he joined as Phone Inspector in the Department of Telecommunication in the year 1974. The petitioner obtained voluntary retirement from service of the 1st respondent department on 15.02.2009 and he was issued with Pension Payment Order No.210024976. Thereafter, in the year 2017, the 2nd respondent informed the petitioner that he has drawn excess pension amount of Rs.12,02,893.00/- for the period Feb 2009 to June 2017 and for that they have marked Hold/Lien on the petitioner's Fixed Deposits in STDR's Nos.33772209125, 34357401039 and savings Bank in account No.10754533753 in Peedamaedu Branch for an amount of Rs.5,00,000/-, Rs.5,00,000/- and for Rs.2,05,204.00/- respectively. While that being so, without giving any opportunity to the petitioner to submit his explanation, the 2nd respondent passed a recovery order dated 07.08.2017 against the petitioner in CPPC/REV/TELECOM/82668. Thereafter, the petitioner submitted a representation on 21.08.2017. Challenging the said recovery order to be illegal and arbitrary, the petitioner filed this present writ petition praying for quashment of the same.

3.The learned counsel for the petitioner submitted that the petitioner and his wife are senior citizens and suffering from Knee problem and the doctor advised her wife to go for knee cap replacement and they have been put to untold hardship in their old age. The learned counsel further submitted that without affording any opportunity to the petitioner, the 2nd respondent has passed an recovery order and the same is illegal and hence prays for appropriate orders.

4. The learned counsel appearing for the 2nd respondent Bank does not dispute the submissions made by the learned counsel for the petitioner. He further submitted that the 2nd respondent will consider the representation of the petitioner and thereafter, they may be permitted to pass an order within the time stipulated by this Court.

5. A perusal of the impugned order would disclose that the order of recovery came to be passed without issuing any notice and affording any opportunity, whatsoever, to the petitioner and the impugned order visits the petitioner with grave consequences and in all fairness, the 2nd respondent, before effecting the order of recovery, ought to have put the petitioner on notice

and after obtaining his explanation, should have passed the orders in accordance with law ; but however, the said official has failed to do so. Therefore, on the sole ground, the impugned order warrants interference and it is to be remanded to the 2nd respondent for fresh consideration.

6 In the result, the writ petition is allowed and the impugned order passed by the 2nd respondent in reference No. CPPC/REV/TELECOM/82668 dated 14.07.2017 and reference No.CPPC/REV/TELECOM/82668 dated 07.08.2017 are hereby set aside and the 2rd respondent is directed to issue show cause notice to the petitioner as to the reasons for ordering recovery within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the petitioner is directed to submit his explanation within a period of four weeks thereafter and the 2rd respondent, on receipt of such explanation from the petitioner, is directed to consider the same on merits and in accordance with law and pass orders, within a further period of six weeks thereafter and communicate the decision taken to the petitioner. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

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To

1.The Government of India,
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Peelamedu Branch,
Coimbatore.

+2 CCS to Mr.A.Edwin Prabakar, Advocate sr 87022.
+1 CC to Mr.K.Chandrasekaran, Advocate sr 87012

W.P.No.10093 of 2018

VBA(CO)
SP(01/11/2019)