

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2019

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.13965 of 2019
and WMP.No.14014 of 2019

Arikrishnan

... Petitioner

-vs-

The Deputy Director
Department of Women and Child Development
Government of Puducherry
Puducherry-605 013

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of certiorari calling for the records in Communication No.4923/MKuMayTo/MoOp/2017/1986 dated 24.10.2017 from the respondent and to quash the order dated 24.10.2017 in Communication No.4923/MKuMayTo/MoOp/2017/1986.

For Petitioner : Mr.K.S.Vaithianathan

For Respondent : Mr.A.V.Ramalingam, AGP

O R D E R

The petitioner is a senior citizen aged about 88 years. According to him, he does not own any property and has been receiving monthly pension from the Department of Women and Child Development under old age pension scheme from February 2007 till September 2015. According to the petitioner, he is under the care of his daughter who is a widow and his wife is also very aged. Further the petitioner has no other source of income.

2. While so, the petitioner received a communication dated 24.10.2017 from the respondent informing him that the monthly pension was discontinued on the ground that he became ineligible to receive pension. In the communication, the petitioner was also directed to pay Rs.1,56,750/- received by him as pension till date. On receipt of the order, the petitioner appears to

have submitted a representation on 03.11.2017 demanding to know on the basis of which, the pension was discontinued. In response to the representation, the respondent replied on 07.11.2017 that from 08.09.2014, the limit of eligibility is raised from Rs.24,000/- to Rs.75,000/- and therefore, the petitioner became ineligible.

3. The case of the petitioner is that before issuing the order of discontinuing the pension, no notice has been issued to him thereby denied opportunity to the petitioner to explain his position in detail.

4. The learned counsel appearing for the petitioner would submit that in similar circumstances, this court allowed the writ petition in W.P.1726 of 2019 dated 26.02.2019. The learned Judge has allowed the Writ Petition on the ground that no opportunity was given to the petitioner before adverse order was passed as found in paragraph 6 of the order, which is extracted as follows:-

"6. Needless to say that when an adverse order is passed against the petitioner, that too, stopping the pension and to recover the amount already paid to her, the respondent ought to have issued a notice to the petitioner and heard her before taking a decision. As the respondent has not followed the above procedure in accordance with the principles of natural justice, this Court is of the view that the impugned order cannot be sustained anymore. Accordingly, this writ petition is allowed and the impugned order is set aside. It is open to the respondent to issue notice to the petitioner and thereafter, pass fresh order after hearing her. No costs. Consequently, connected miscellaneous petition is closed."

5. The learned counsel would further submit that in this case also, no opportunity was given, therefore, the impugned order passed by the authority is liable to be interfered.

6. After notice, Mr.A.V.Ramalingam, entered appearance and submit that in view of the raising of the ceiling limit, the petitioner became ineligible to receive pension any more and therefore, authority has rightly passed the order on 24.10.2017 discontinuing the pension and sought for repayment of the amount already paid to the petitioner wrongly.

7. Although the respondent may or may not have a valid reason for discontinuing the old age pension, nevertheless, it is certainly not open to the respondent to pass order adverse to the interest of the petitioner without putting the petitioner on

notice. As rightly contended by the petitioner counsel, any adverse order to be issued, it should only after getting proper explanation from the petitioner. In this case, admittedly, such notice has not been issued to the petitioner calling for his explanation. Therefore on this ground only, the impugned order is liable to be interfered with.

8. For the above reason, the impugned order dated 24.10.2017 is hereby set aside. The respondent is directed to issue notice to the petitioner, in case, he wanted to take any further action against the petitioner for discontinuing the pension granted to him. Only on such notice being issued and after getting proper explanation from the petitioner, further action will be initiated by the authority in this regard. Accordingly, the Writ Petition is allowed. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Deputy Director,
Department of Women and Child Development,
Government of Puducherry,
Puducherry-605 013.

सत्यमेव जयते

W.P.No.13965 of 2019

GP[CO]
SRG 13/08/2019

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