



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2019

CORAM:

THE HONOURABLE Mr. JUSTICE D. KRISHNAKUMAR

W.P. (MD) No. 207 of 2016

and

W.M.P (MD) No. 618 of 2016

P. Saraswathi

... Petitioner

Vs.

1. The Accountant General,
Office of the Accountant General (A & E),
Chennai-18.

2. The Treasury officer,
Madurai.

3. The Assistant Treasury Officer,
Melur,
Madurai District.

4. The Medical Officer,
PHC Kottampatti,
Melur Taluk,
Madurai District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, restraining respondents 1 to 3 in any way deducting any amount from the petitioner's monthly pension (PPO No.C274418) of Rs.8,339/-.

For Petitioner : Mr.S.Mahesh Babu

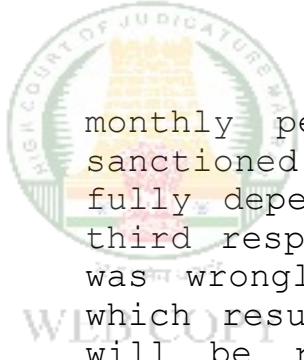
For R1 : Mr.P.Gunasekaran

For R2 to R4 : Mr.Aayiram K.Selvakumar,
Additional Government Pleader

ORDER

The petitioner seeks a direction to restrain the respondents 1 to 3 in any way deducting any amount from the petitioner's monthly pension (PPO No.C274418) of Rs.8,339/-.

2. The petitioner was working as Village Health Nurse in Health Department in Kottampatti PHC Melur Taluk, Madurai District and she retired from service on 31.10.2004 and she was receiving pension amount of Rs.2,978/-. Pursuant to the Pay commission, the



monthly pension amount was increased and the petitioner was sanctioned pension amount of Rs.8,339/- by the respondents and she fully depends upon the pension for her livelihood and now, the third respondent orally informed the petitioner that the pension was wrongly fixed as Rs.8,339/- instead of fixing Rs.6,732/-, which resulted the excess payment of Rs.2,61,741/- and the same will be recovered. But, no written order was served to the petitioner. Therefore, the present writ petition has been filed seeking the aforesaid relief.

3. Mr.P.Gunasekaran, learned Standing Counsel appearing for the first respondent and Mr.Aayiram K.Selvakumar, learned Additional Government Pleader appearing for the respondents 2 to 4 would submit that the petitioner's daughter has submitted a letter to the respondents requesting the department to deduct the excess amount by installment. Therefore, now the petitioner cannot seek the aforesaid relief. Further it is submitted that the third respondent has paid the revised pensionary amount from 1.1.2006 based on the implementation of the Pay Commission and the same has been wrongly fixed to the petitioner.

4. Admittedly, no order has been passed by the respondents in respect of recovery. The petitioner has also disputed the statement made by the petitioner's daughter in respect of recovery and further it is not disputed that the petitioner has not made any statement before any authority with regard to recovery.

5. This Court finds force on the contention made by the learned counsel for the petitioner. As rightly pointed out by the petitioner, no order has been passed in respect of recovery. Therefore, the respondents cannot proceed to recover any amount based on the letter submitted by the petitioner's daughter. It is open to the respondents to proceed and to initiate the recovery proceedings if any, in the manner known to law by providing an opportunity of hearing to the petitioner. Further, the respondents cannot recover the said amount till they follow the due procedure as contemplated under law.

6. In view of the observation made earlier, this writ petition is allowed. The respondents shall proceed with the recovery proceedings, if any, in accordance with law, after affording an opportunity of hearing to the petitioner. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The Accountant General,
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Chennai-18.

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Madurai.

3.The Assistant Treasury Officer,
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Madurai District.

4.The Medical Officer,
PHC Kottampatti,
Melur Taluk,
Madurai District.

+1 CC to M/s.S.MAHESH BABU, Advocate (SR-69553[F] dated
18/06/2019)

+1 CC to M/s.SPL GP (SR-69787[F] dated 19/06/2019)

+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-70160[F] dated
20/06/2019)

AM

W.P (MD) No.207 of 2016

18.06.2019

KM/ (22.07.2019) 3P 8C