



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.08.2020**

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.9919 of 2020

and

W.M.P(MD)No.8879 of 2020

S.I.Qadiri

...Petitioner

-Vs-

1.The Accountant General, (A&E),
361, Anna Salai, Teynampet,
Chennai-600 018.

2.The Director of Agriculture,
Chepauk,
Chennai.

3.The Treasury Officer,
District Collectorate Campus,
Madurai.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, forbearing the respondents herein from withholding or effecting any recovery from the petitioner's pension account (PPO No.R0706280/AGR) and to consequently direct the Respondents to continue the pension paid to the petitioner in May, 2020.

For Petitioner	: Mr.P.Samuel Gunasingh
For R1	: Mr.P.Gunasekaran
For R2 & R3	: Mr.M.Karuppasamy, Government Advocate

ORDER

The prayer sought for in this writ petition is for a Writ of Mandamus, forbearing the respondents herein from withholding or effecting any recovery from the petitioner's pension account (PPO No.R0706280/AGR) and to consequently direct the Respondents to continue the pension paid to the petitioner in May, 2020.

2.Heard Mr.P.Samuel Gunasingh, learned counsel appearing for the petitioner, Mr.P.Gunasekaran, learned counsel appearing for the first respondent and Mr.M.Karuppasamy, learned Government Advocate appearing for the respondents 2 & 3.



3. When the petitioner was working as Deputy Director of Agriculture, on attainment of superannuation, he retired from service on 31.08.2011 from the respondents Department and since his retirement, he has been paid the monthly pension regularly. When that being so, the said regular payment of pension was paid until May 2020 and the monthly pension was Rs.53,128/-, thereafter, from June 2020 onwards suddenly the pension was reduced to Rs.45,668/-, which shows that a sum of Rs.7,460/- was deducted from the pension.

4.The said deduction in the pension since has been unilaterally made without any notice to the petitioner, challenging the said reduced pension, the petitioner seeks for a mandamus as prayed in this writ petition. Accordingly, this writ petition has been filed.

5. The learned counsel appearing for the petitioner would submit that, the similar issue has been considered by this Court in number of cases and two such cases in W.P(MD)No.7441 and 7454 of 2020 dated 09.07.2020 had been disposed of by passing the following orders:-

"4. The learned counsel appearing for the respondents in both the writ petitions made a combined request before this Court that, if at all the petitioners' grievance is only to the effect that no notices have been served on them before the reduction of pension is effected, certainly, the respondents are ready and willing to give notice to them and after hearing them, necessary orders would be passed based on the eligibility of these writ petitioners to get the actual pension.

5. The said fair submission made by the learned standing counsel for the first respondent as well as the learned Government Advocate for the respondents 2 and 3 in both the cases are taken on record and in view of the said submission, this Court is inclined to dispose of the writ petitions by this common order to the following effect:

"that the respondents are hereby directed not to deduct or reduce the pension hitherto received by both the writ petitioners till the month of May 2020 and the said amount shall continue to pay to the petitioners. However, it is open to the third respondent to issue a show cause notice to the respective petitioners with regard to the proposal of reduction of pension and after giving an opportunity of being heard to both the petitioners, final orders can be passed by the third respondent as to whether deduction in pension has to be effected or not. Accordingly, the respondents can act upon, after the final order to be passed by the third respondent, as indicated above. Till such time, the present pension, which was paid to the petitioners till the month of May 2020, shall



indicated above shall be done by the respondents, especially, the third respondent within three months from the date of receipt of a copy of this order."

With these observations and directions, the writ petitions are disposed of. No costs. Consequently connected Miscellaneous Petitions are closed."

6. Relying upon the said judgment, the learned counsel appearing for the petitioner would submit that, in this case also no notice has been given to the petitioner before effecting any deduction in the pension, therefore, such unilateral deduction of the said sum cannot be sustained. Accordingly, the said benefit given to those persons, who are similarly placed persons, can be extended to the petitioner also.

7. In response to the same, the learned Standing Counsel appearing for the first respondent and the learned Government Advocate appearing for the respondents 2 & 3 would fairly submit that, the only grievance of the petitioner is that the impugned deduction in pension has been made or effected without putting the petitioner any notice, hence certainly, the present deduction in pension can be withdrawn and after issuing show cause notice, after adopting the procedure established under law by way of principles of natural justice, suitable decision would be taken.

8. In view of the said submissions being made by the learned counsel appearing for the respondents and by taking into account the factual matrix of the case which is similar to that of the earlier case referred to above, where the aforesaid order has been passed, there shall be a similar order to that effect in this case also.

"that the respondents are hereby directed not to deduct or reduce the pension hitherto received by the writ petitioner till the month of May 2020 and the said amount shall continue to be paid to the petitioners. However, it is open to the third respondent to issue a show cause notice to the petitioner with regard to the proposal of reduction of pension and after giving an opportunity of being heard to the petitioner, final orders can be passed by the third respondent as to whether deduction in pension has to be effected or not. Accordingly, the respondents can act upon, after the final order to be passed by the third respondent, as indicated above. Till such time, the present pension, which was paid to the petitioner till the month of May 2020, shall continue to be paid without any hindrance. The needful as indicated above shall be done by the respondents, especially, the third respondent within three months from the date of receipt of a copy of this order."



9. With these observations and directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-I)

/ /2020

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Accountant General, (A&E),
361, Anna Salai, Teynampet,
Chennai-600 018.

2.The Director of Agriculture,
Chepauk,
Chennai.

3.The Treasury Officer,
District Collectorate Campus,
Madurai.

+1 CC to SPL GP (SR-14867[F] dated 25/08/2020)

Order made in

W.P. (MD)No.9919 of 2020

24.08.2020

VB (14.10.2020) 4P 5C