



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 14.08.2020

DELIVERED ON : 18.09.2020

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CORAM:

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

WP(MD).No.2539 of 2015 and
M.P(MD).No.1 of 2015

M. Jannathu Nisha : Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Treasury Officer,
District Treasury,
Madurai -20

: Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certioriorified Mandamus calling for the records pertaining to the order of the second respondent in Na.Ka.No.9123/2014/K2, dated 30.06.2014 and quash the same as illegal and consequently, direct the second respondent to remit back the amount deducted from the petitioner's family pension forthwith in the bank account of the petitioner.

For petitioner : Mr. C.M. Arumugam
For R1 and R2 : Mr. J.Gunaseelan Muthiah
Additional Government Pleader

ORDER

This Writ Petition has been filed by the wife of the deceased public servant seeking to quash the impugned order of the second respondent, dated 30.06.2014.

2. The learned counsel appearing for the petitioner submitted that the second respondent has unilaterally refixed the quantum of pension payable to the petitioner without issuing show cause notice to her and hence, she preferred W.P(MD).No.8597 of 2014 before this



Court and this Court by order, dated 29.05.2014 disposed of the same with a direction to the second respondent to pass an appropriate orders after giving due opportunity to the petitioner. Pursuant to the said order, the present impugned order is again passed by the second respondent on 30.06.2014 whereby, the second respondent has called upon the petitioner to submit her consent letter on or before the end of the month of July 2014 and hence, this Writ Petition is filed.

3. Mr. J. Gunaseelan Muthian, learned Additional Government Pleader appearing for the respondents stated that the pension amount payable to the petitioner's husband is wrongly fixed in respect of the petitioner. However, she is entitled to only Rs.5,520/- per month as pension, whereas Rs.9,197/- was paid to her as a pension from 08.02.2009 to 31.12.2009 and hence, there is an excess payment of Rs. 3,35,203/-, in order to recover the same in easy and convenient monthly installment. He would further submit that the impugned order may be set aside to proceed afresh after issuing show cause notice.

4. After hearing the rival submissions made by the learned counsel appearing on either side and after pursuing the earlier order passed in the above said Writ Petition and from the records it is seen that based on the order passed by this Court in W.P(MD). No.8597 of 2014, dated 29.05.2014, the second respondent herein has given a detailed order furnishing the working sheet as to the wrong fixation of pension amount, excess amount credit and duration of the amount already paid and also calculated the amount as Rs.3,35,253/- to be paid by the petitioner by the impugned order dated 30.06.2014. It appears that without issuing show cause notice to the petitioner, the second respondent has passed an impugned order calling upon the petitioner to furnish the consent letter.

5. Taking into consideration of the history of the case and also the age of the petitioner, I am inclined to pass the following order:

Insofar as the calculation of the excess amount paid the same remains in dispute. This Court by an earlier order, dated 29.05.2014 in W.P(MD).No. 8597 of 2014, directed the second respondent to issue a show cause notice and to proceed further and therefore, the order passed by the second respondent dated 30.06.2014 is hereby ordered to be taken as show cause notice and the petitioner is directed to submit her objections if any, within a period of eight weeks from the date of receipt of a copy of this order and thereafter, the second respondent is directed to pass fresh final order within a period of six weeks.



6. In this view of the matter, the Writ Petition is partly allowed to the extent indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (C.O)

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

trp

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 District Collector,
Madurai District,
Madurai.
- 2.The Treasury Officer,
District Treasury,
Madurai -20.

+1 CC to the SPL GP (SR-17509[F] dated 21/09/2020)

ORDER MADE IN
WP (MD) .No.2539 of 2015
18.09.2020

SCR(CO)
CS(24.09.2020) 3P 4C