



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2021

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.12499 of 2014

M.P.No.1 of 2014, W.M.P.No.29892 & 40294 of 2018

C.ANUSOOYA

W/O.RAMAMOORTHY,

H19 3/416, TNHB NAGAR,

SEVVAPETTAI, THIRUR POST,

THIRUVALLUR DISTRICT.

...

PETITIONER

Vs.

1 THE DIRECTOR

MOTOR VEHICLES MAINTENANCE DEPT.,

VELACHERRY, CHENNAI-42.

2 THE PRINCIPAL ACCOUNTANT GENERAL (A & E),
CHENNAI-18

3 THE TREASURY OFFICER,
DISTRICT TREASURY,
THIRUVALLUR 602 001.

...

RESPONDENTS

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records in connection with the impugned order of recovery passed by the 3rd respondent in L.Dis.3262/2014/K2 dated 22.3.2014 and to quash the same.

For Petitioner : Mr.S.Sivakumar

For Respondents 1 & 3 : Mr.U.M.Ravichandran, Spl.G.P.

For Respondent No.2 : Mrs.T.S.Selvarani

O R D E R

According to the petitioner, petitioner was working as Manager, Tamilnadu Motor Vehicles Maintenance Department, the third respondent herein and she was retired from service on the date of superannuation on 31.01.2009. Thereafter, based on the application, the respondent has settled the terminal benefits including pensionary benefits to the petitioner. According to



the petitioner, the respondent has fixed the pay as Rs.12,500/- and the same was paid to the petitioner as pension. While so, the third respondent sent the impugned recovery order to the petitioner informing that a sum of Rs.1,83,670/- has been paid as excess and the same has to be recovered from the petitioner. Thus, the second respondent passed the impugned order by revising the earlier order by revising the pension as Rs.11,100/- and DCRG as Rs.4,50,912/-. Challenging the said order, the petitioner has preferred the present writ petition before this Court.

2. The first respondent has filed counter affidavit wherein it is stated that the second respondent inadvertantly authorized the revised pension at Rs.12,500/- instead of Rs.11,100/- and D.C.R.G. was authorized for Rs.5,03,250/- instead of Rs.4,50,912/-. On scrutiny, during post audit the third respondent found the excess payment made to the petitioner and informed the petitioner that the petitioner is entitled for Rs.11,100/- as pension and DCRG as Rs.4,50,912/-. It is also informed that Rs.1,83,670/- as excess payment made to the petitioner. However, the petitioner obtained interim order before this Court not to recover the said amount from the petitioner.

3. According to the learned counsel appearing for the petitioner, admittedly, after retirement of the petitioner on attaining superannuation, pensionary benefits had been calculated based on the 6th Pay Commission and paid Rs.12,500/- as pension. The respondent has passed revised order by reducing the pension at Rs.11,100/- and passed recovery order that a sum of Rs.1,83,670/- as excess payment made to the petitioner and the same has to be recovered from the pension of the petitioner.

4. Heard the rival submissions of the parties and perused the materials available on record.

5. The ground raised by the petitioner is that without providing an opportunity to the petitioner, the impugned order has been passed and therefore, violates the principle of natural justice.

6. The learned Additional Government Pleader appearing for the respondents would submit that in the counter affidavit filed by the first respondent, it is clearly stated that the respondent has wrongly fixed the pay while fixing the pension of the petitioner and thereafter passed the order by fixing the revised pension as Rs.11,100/- and Rs.1,83,670/- as excess payment made to the petitioner and the same has to be recovered from the petitioner. Therefore, the impugned order is perfectly



valid and no warrants to interfere with the impugned order.

7. On perusal of the impugned order passed by the respondent, based on the Accountant General proceedings, the third respondent has passed the impugned order. There is no reference to show that the respondent has provided opportunity to the petitioner and therefore, the impugned order is liable to be set aside on this short ground.

8. In view of the above, the impugned order passed by the third respondent is quashed and remitted to the second respondent to consider afresh and pass appropriate orders after providing an opportunity to the petitioner as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of this order.

9. The writ petition stands allowed with the above directions. No Costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Vaan

To

- 1 THE DIRECTOR
MOTOR VEHICLES MAINTENANCE DEPT.,
VELACHERRY, CHENNAI-42.
- 2 THE PRINCIPAL ACCOUNTANT GENERAL (A & E),
CHENNAI-18
- 3 THE TREASURY OFFICER,
DISTRICT TREASURY,
THIRUVALLUR 602 001.

+1cc to Mr.S.Sivakumar, Advocate SR.No.65771

+1cc to the Government Pleader SR.No.66214

W.P.No.12499 of 2014

M.P.No.1 of 2014, W.M.P.No.29892

& 40294 of 2018

NMI (CO)

GN(23/12/2021)