



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2021

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.22727 of 2015

and

M.P (MD) No.2 of 2015

B.Syed Ibrahim Basha (died)

S.Anarkalai

(Petitioner substituted vide Court Order
dated 21.09.2021 in W.M.P (MD) No.8943 of 2021)

...Petitioner

Vs.

1.The Director of Treasures,
DMS Complex,
Saidapet,
Chennai-600 015

2.The Treasury Officer,
District Treasury,
Collector Office Complex,
Madurai-625 020`

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, calling records of the second respondent ie., Treasury Officer, Madurai, relating to Na.Ka.No.457/2015/J2 dated 17.08.2015 and quash the same.

For Petitioner : Mr.S.Govindan

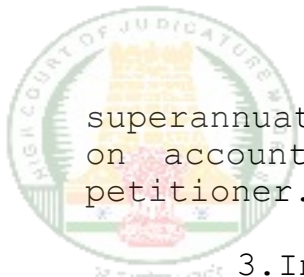
For R1 & R2 : M.Lingadurai

Government Advocate

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorari to quash the impugned order passed by the second respondent dated 17.08.2015 in Na.Ka.No.457/2015/J2.

2.The impugned order dated 17.08.2015 is an order for recovery of a sum of Rs.2,20,221/- which according to the respondents was paid in excess of the amount for which the petitioner is eligible. It is to be noted that the petitioner retired from service on 30.04.1993 and the order of recovery is passed after a period of twenty two years from the date of



superannuation. It is not stated anywhere that the recovery was made on account of any default or any suppression of facts by the petitioner.

3.In such circumstances, the recovery sought for at this length of time without issuing any show cause notice, is arbitrary and contrary to the law as laid down by the Hon'ble Supreme Court in several precedents. However, it is open to the second respondent to proceed with the revision of pension after issuing notice to the petitioner and by following the due procedure in the manner known to law.

4.Accordingly, the Writ Petition is partly allowed and the impugned order 17.08.2015 in Na.Ka.No.457/2015/J2 in relation to the recovery is quashed. However, liberty is given to the second respondent to revise the rate of pension, if it is permissible in law, after following the due procedure prescribed by law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar

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 Director of Treasures,
DMS Complex, Saidapet,
Chennai-600 015

2.The Treasury Officer,
District Treasury,
Collector Office Complex,
Madurai-625 020

+1 CC to M/s.SPL.GP (SR-30352[F] dated 27/09/2021)

W.P. (MD) .No.22727 of 2015
and M.P (MD) No.2 of 2015
24.09.2021

Ns

<https://e-courts.gov.in/e-services/16> 4C