



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2022
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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 1175 of 2019
and
W.M.P. Nos. 1331 and 12276 of 2019

Sivagamasundari

... Petitioner

-vs-

1. The Principal Secretary/Commissioner of
Treasuries and Accounts,
Integrated Office Complex for
Finance Department, 3rd floor,
Veterinary Hospital Campus,
Anna Salai, Nandanam, Chennai-600 035.

2. The Pension Pay Officer,
No. 571, Officers Building,
Veterinary Hospital Campus,
Amma Illam, Anna Salai,
Nandanam, Chennai-600 032.

... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, calling for the records relating to the Second Respondent proceedings made in Na. Ka. 5651/2018/E1 dated 13.12.2018 and to quash the same and direct the Respondents to refund the pension amount so far deducted/recovered from the Petitioner along with interest within time frame by this Hon'ble Court.

For Petitioner : Mr. M.Muthappan
For Respondents: Mrs. C.Sangamithirai
Special Government Pleader

O R D E R

Heard Mr. M.Muthappan, Learned Counsel for the Petitioner and Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Proceedings No. Na. Ka. 5651/2018/E dated 13.12.2018 passed by the Second Respondent



in which the Petitioner has been informed that the sum of Rs. 92,210/- excessively paid to her has been recovered from her retirement benefits. It is further contended that the sum of Rs. 9,000/- has been deducted from the family pension due to her and in furtherance thereto, a consequential direction is sought for refund of the deducted amount along with interest within a time limit fixed by the Court.

3. This Court at the time of admission on 21.01.2019 had granted an order of interim stay of recovery alone, which continues to be in force as on date.

4. It is trite law that any administrative action which involves civil consequences must be made consistently with the rules of natural justice, meaning thereby that the person concerned must be informed of the case with supporting evidence against her and she must be given a fair opportunity to meet the case before an adverse decision is taken. The Government of Tamil Nadu in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 after referring to the principles laid down by the Hon'ble Supreme Court of India in State of Punjab -vs- Rafiq Masih (Whitewasher) [(2015) 4 SCC 334], has issued detailed instructions providing the manner in which any excess amount paid to Government Servants/Pensioners/Family Pensioners would have to be made.

5. There is nothing to show that either in the impugned order or in the Counter-Affidavit filed by the Second Respondent that before the excess payment claimed to have been made was effected, any show cause notice had been issued to the Petitioner calling for an explanation from her with supporting materials relied in that regard. Such incurable flaw in decision making by the Respondents is in violation of the principles of natural justice and would vitiate the impugned order. In that view of the matter, the impugned order passed by the Second Respondent is set aside leaving it open to the concerned authorities to appropriately deal with the matter following due process. It shall be incumbent upon the concerned authorities to issue show cause notice to the Petitioner along with working-sheet of the calculation for the excess payment claimed to have been made to her and after affording full opportunity of personal hearing to her and considering each of the objections that may be raised by her, a reasoned order shall be passed on merits and in accordance with law following the procedure laid down in the instructions in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 issued by the Government of Tamil Nadu, uninhibited and uninfluenced by the earlier order passed in the matter, and the decision taken shall be communicated to the Petitioner under written acknowledgement.



6. In the event of the concerned authorities failing to initiate fresh such proceedings within 31.07.2022, any amount so far recovered from the Petitioner pursuant to the impugned order, which has been set aside, shall be refunded to her under written acknowledgment and report of compliance in that regard shall be filed before the Registrar (Judicial) of this Court.

In fine, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Principal Secretary/Commissioner of Treasuries and Accounts, Integrated Office Complex for Finance Department, 3rd floor, Veterinary Hospital Campus, Anna Salai, Nandanam, Chennai-600 035.
2. The Pension Pay Officer, No. 571, Officers Building, Veterinary Hospital Campus, Amma Illam, Anna Salai, Nandanam, Chennai-600 032.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

+1 CC to Mr.M. Muthappan, Advocate sr 24633.
+1 CC to The Government Pleader sr 24923.

W.P. No. 1175 of 2019

SPD(CO)
SP(11/05/2022)