



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

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THE HON'BLE MR. JUSTICE P.D.AUDIKESSAVALU

W.P. No. 9005 of 2018
and
W.M.P. Nos. 10855 of 2018
and 1014 and 1017 of 2019

C. Anusooya

... Petitioner

-vs-

1. The Director,
Motor Vehicles Maintenance Department,
Velacherry, Chennai - 42.

2. The Principal Accountant General (A&E),
Chennai - 18.

3. The Treasury Officer,
District Treasury,
Thiruvallur.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, to call for the records in connection with the impugned order of recovery passed by the Third Respondent in Na. Ka. 171/2018/K1 dated 20.03.2018 and to quash the same.

For Petitioner : Mr. S.Sivakumar

For Respondents: Mrs. C. Sangamithirai
Special Government Pleader
(for R1 & R3)

: Mrs.Hema Muralikrishnan (for R2)

O R D E R

Heard Mr. S.Sivakumar, Learned Counsel for the Petitioner, Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the First to Third Respondents and Mrs. Hema Muralikrishnan, Learned Counsel for the Second Respondent and



perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Proceedings No. Na. Ka. 171/2018/K1 dated 20.03.2018 passed by the Third Respondent in which the Petitioner has been informed that the sum of Rs. 18,310/- excessively paid to her would be recovered from her monthly pension in two installments. This Court at the time of admission on 13.04.2018 had passed an order of interim stay of recovery alone which continues to be in force as on date.

3. 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 him and he must be given a fair opportunity to meet the case before an adverse decision is taken. The First Respondent has filed Counter-Affidavit dated 26.11.2018 contending that the Petitioner had been informed about the excess payment made to him and requested to submit his explanation, but he did not submitted any documentary evidence in that regard. 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.

4. There is nothing to show that in the impugned order or in the that before the excess payment claimed to have been made was effected passing the impugned order, 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 Third 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.

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

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

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To

1. The Director,
Motor Vehicles Maintenance Department,
Velacherry, Chennai - 42.
2. The Principal Accountant General (A&E),
Chennai - 18.
3. The Treasury Officer,
District Treasury,
Thiruvallur.

+lcc to Mrs.Hema Muralikrishnan, Advocate, S.R.No.20088
+lcc to Mr. S.Sivakumar, Advocate, S.R.No.20103
+lcc to the Government Pleader, S.R.No.20375

W.P. No. 9005 of 2018

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NSK/01/06/2022