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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2022

CORAM

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

W.P. No. 20752 of 2016
and
W.M.P. No. 17807 of 2016

S.Muruganandam … Petitioner

-vs-

1. Government of Tamil Nadu
   Rep. by Secretary
   Higher Education
   Chennai - 9.

2. Assistant Treasury Office
   Chidambaram
   Cuddalore District.

3. Principal
   Government Arts College
   Chidambaram - 608 102.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings No. Na.Ka./65/A6/2016 dated 20.04.2016 issued by the Second Respondent, quash the same and direct the Second Respondent, quash the same and direct the Second Respondent to continue to pay the revised pension to the Petitioner.

For Petitioner : Mr. R.Subramanian

For Respondents : Mr. P.Balathandayutham
Special Government Pleader

O R D E R

Heard Mr. R.Subramanian, Learned Counsel for the Petitioner, Mr. P.Balathandayutham, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

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2. The Writ Petition challenges the Proceedings No. Na. Ka. 65/A6/2016 dated 20.04.2016 passed by the Second Respondent in which the Petitioner has been informed that the sum of Rs. 5,60,439/- excessively paid to him would be recovered from his pension with a consequential direction to the Second Respondent to continue to pay the revised pension to the Petitioner.

3. This Court at the time of admission on 20.06.2016 had passed the following self-explanatory order:-

> "2. There shall be an order of interim injunction restraining the Second Respondent from recovering any amount from the pension of the petitioner. As far as the future payment of pension is concerned, it is made clear that the petitioner is eligible to get only the actually eligible revised pension amount and not the excess pension amount, which was previously paid."

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 him and he 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 in the impugned order 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 him 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 him and after affording full opportunity of personal hearing to him and considering each of the objections that may be raised by him, 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

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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 30.09.2022, any amount so far recovered from the Petitioner pursuant to the impugned order, which has been set aside, shall be refunded to the Petitioner 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 Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Maya

To

1. The Secretary to Government of Tamil Nadu
   Higher Education
   Chennai - 9.

2. Assistant Treasury Office
   Chidambaram
   Cuddalore District.

3. Principal
   Periyar Government Arts College
   Cuddalore.

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

+1cc to M/s.R.Subramanian, Advocate, S.R.No.32312

+1cc to the Government Pleader, S.R.No.32572

W.P. No. 20752 of 2016

PMK(CO)
UMA(13/06/2022)

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