



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.Nos.6946, 6955, 6950 and 6957 of 2022
and

W.M.P.Nos.6981, 6987, 6990 and 6994 of 2022

R.Loganathan	... Petitioner in W.P.No.6946/2022
V.Kuppusamy	... Petitioner in W.P.No.6950/2022
N.R.Arumugam	... Petitioner in W.P.No.6955/2022
N.Nachiappan	... Petitioner in W.P.No.6957/2022

vs.

- 1.The Accountant General (A&E),
361, Anna Salai,
Teynampet, Chennai - 18.
- 2.The Assistant Treasury Officer,
Krishnagiri, Krishnagiri District.

... Respondents in all WPs

Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the respondents from withholding or effecting any recovery from the petitioners' pension Account Nos.C267506, C269135, C264614 and R0706424 and consequently, to direct the respondents to continue the pension paid to the petitioner prior to December, 2022, February, 2022, & December,2022.

For Petitioner : Mr.Swarnam J.Rajagopalan
(in all WPs)

For Respondent : Mrs.Hema Muralikrishnan
Standing Counsel (for R1) (in all WPs)

: Mr.A.M.Ayyadurai
Government Advocate (for R2) (in all WPs)



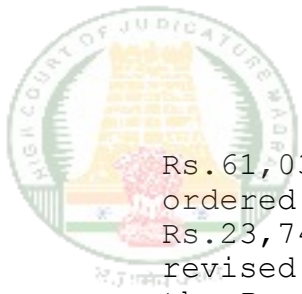
COMMON ORDER

These Writ Petitions have been filed seeking to issue Writs of Mandamus, forbearing the respondents from with-holding or effecting any recovery from the petitioners' Pension Account Nos.C267506, C269135, C264614 and R0706424 respectively and consequently, to direct the respondents to pay pension to the petitioners continuously prior to December, 2022.

2. According to the petitioners, they were working as Joint Director of Agriculture and they have retired from service on attaining the age of superannuation, after rendering their services in the Directorate of Agriculture. After implementation of the Seventh Pay Commission recommendation, the Government has revised the pensionary benefits to the petitioners and they were receiving enhanced pension amount. But suddenly, the second respondent started to recover the amounts of Rs.10,052/-, Rs.8,918/-, Rs.9,576/- and Rs.8,918/- respectively, from their Pension Account without any reason, nor any order has been passed. Therefore, the petitioners have filed the instant Writ Petitions before this Court for violation the principles of natural justice.

3. The first respondent has filed counter affidavit, wherein it has been stated that, as per the decision of the Hon'ble Supreme Court in the case of High Court of Punjab and Haryanan Vs. Jagdev Singh reported in AIR 2016 SC 3523 the recovery of over-payment is permissible and further stated that the second respondent has erroneously paid the pension at the rate of Rs.68,960/-, Rs.61,030/-, Rs.59,240/- and Rs.61,030/- per month, respectively. Therefore, the second respondent revised the said amounts and fixed the monthly pension of the petitioner in W.P.No.6946 of 2022 at Rs.48,620/- per month with effect from 01.11.2020 as per the Government Order in G.O.Ms.No.401, Finance (Pay Cell) Department, dated 12.11.2020 read with G.O.Ms.No.313, Finance (Pay Cell) Department, dated 25.10.2017. It is further stated that, as per the said Government Order, any over-payment of pension made upto October 2020, is not liable to be recovered. But however, in the present case on hand, the over-payment of pension for the period from November 2020 to December 2020, requires to be recovered.

4. The second respondent has filed counter affidavit and the learned Government Advocate appearing for the second respondent also reiterated the stand taken by the 1st respondent and submitted that the second respondent has erroneously fixed the petitioners' Pension amounts at Rs.68,960/-, Rs.61,030/-, Rs.59,240/- and Rs.61,030/- respectively, with monetary benefits from 01.10.2017. But the petitioners are not eligible for revision of Pension at Rs.68,960/-, Rs.61,030/-, Rs.59,240/- and



Rs.61,030/- respectively. Therefore, the Second Respondent ordered to re-fix the pension of the petitioners at Rs.26,830/-, Rs.23,745/-, Rs.23,050/- and Rs.23,745/- respectively, in pre-revised scale, as fixed by the Accountant General, Chennai and the Regional Joint Director of Treasuries and Accounts, Vellore, in the pay band of 15,600+G.P 7,600 and 37400+G.P 8700 respectively.

5. Heard both sides and perused the materials available on record.

6. The primordial contention of the petitioners is that the second respondent had recovered the said amounts from the petitioners' Pension Account, without giving any opportunity to the petitioners, nor any order has been passed by the second respondent. Therefore, the said action of the second respondent is illegal and violates principles of natural justice.

7. Considering the said submissions of the parties and on a perusal of the counter affidavit filed by the second respondent, the fact remains in the present case on hand that there was no reply from the second respondent in the counter affidavit with regard to the aspect of the second respondent providing an opportunity of hearing to the petitioners, nor the recovery order has been passed by the second respondent to recover the said amounts from the petitioners' Pension Account. Therefore, without following the said procedure, the second respondent has recovered the amount from the petitioners' Pension Account.

8. Thereafter, the petitioners came to know that the said amounts have been recovered by the second respondent after deducted from the bank account. Hence, there is some force in the contention of the petitioners that the aforesaid action of the second respondent is illegal and violation of the principles of natural justice.

9. In view of the above said facts, the respondents have recovered the pension amount from the petitioners' Bank account without passing any recovery orders and therefore, such act of the respondents is illegal and excessive. This Court has come to the conclusion that the respondents cannot recover the difference amount without following procedures as contemplated under law. Therefore, if any difference amount is to be recovered from the petitioners, the respondents have to follow the procedure in the manner known to law, by providing an opportunity to the petitioners and proceed to recover the amount. Since the respondents had not passed any recovery order, this Court is inclined to pass orders as follows:-

(i) The respondents are directed to proceed recovery



proceedings, if any, in accordance with law.

(ii) If such action is initiated, the respondents shall follow the principles of natural justice, by duly providing an opportunity to the petitioners and to pass reasoned order.

(iii) Till such time, the respondents are not permitted to recover the amount from the petitioners.

10. With the above liberty, the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

dm

To

1. The Accountant General (A&E),
361, Anna Salai,
Teynampet, Chennai - 18.
2. The Assistant Treasury Officer,
Krishnagiri, Krishnagiri District.

+lcc to Mrs.Hema Muralikrishnan, Advocate, S.R.No.29231
+lcc to the Government Pleader, S.R.No.29404

W.P.Nos.6946, 6955, 6950 and 6957 of 2022

RSV(CO)
CT/16/06/2022