



W.P.No.12648 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12648 of 2019

K.Muthusamy

... Petitioner

-Vs-

1. The Commissioner,
Treasury Department,
Combined Finance Department Complex,
Nandanam, Chennai-35.

2. The Treasury Officer,
District Treasury Office,
Ariyalur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Declaration, declaring the proceedings of the 2nd respondent in Pa.Va.59/C1/2018 dated 22.05.2018 Na.Ka.No.5015/C1/20018, dated 12.12.2018 and Na.Ka.No.5015/C1/2018, dated 22.01.2019 as null and void and thereby consequently direct the respondents to refund the attached amount of Rs.1,02,755/- along with interest at 12 percentage per annum and refix the pension as per the Rules.

For Petitioner : Mr.A.R.Nixon

For Respondents : Mr.P.Gurunathan
Additional Government Pleader



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ORDER

The order of recovery issued by the second respondent in proceeding dated 12.12.2018 and 22.01.2019, are sought to be quashed in the present writ petition.

2. The petitioner is a pensioner. He was appointed as a Middle School Headmaster and retired from service on 31.03.1994. He is drawing a pension as per the revised pension granted by the authorities in accordance with the Government Orders in force. The revision of pension was granted to the writ petitioner based on the Government orders.

3. While so, an audit objection was raised stating that excess pension was paid to the writ petitioner and consequently the respondents issued the impugned order of recovery. The impugned order has been passed after a lapse of several years from the date of the retirement of the writ petitioner. The petitioner is a pensioner and now he is aged about 89 years. The recovery if allowed to continue, would cause hardship to the



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petitioner.

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4. The learned counsel for the petitioner states that the amount has been recovered from the monthly pension of the writ petitioner. It is contended that no show cause notice was issued to the writ petitioner, thus, the order impugned is in violation of the Principles of Natural Justice.

5. Any action affecting the rights of a pensioner must be done only after issuing a show cause notice and by providing an opportunity to the employee concerned. That apart, there was no misrepresentation or otherwise on the part of the writ petitioner. The respondents fixed the scale of pay and accordingly, granted a revised pension. If at all, any mistake occurred while fixing the pay or revision of pay, the mistake is to be rectified and the excess payment of pension, if at all made, cannot be recovered after several years. In the event of any such recovery after several years from the monthly pension, the same would result in extreme hardship to the pensioners and therefore, the impugned order is liable to be set aside.



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6. Accordingly, the respondents are directed to ascertain the correctness of the scale of pay and the revision of pension, in accordance with the Government Orders and Rules in force. However, the excess payment made to the petitioner cannot be recovered. As learned counsel for the petitioner states that the recovery has been made pursuant to the impugned order, thus, the respondents are directed to repay the recovered amount to the writ petitioner within a period of eight weeks from the date of receipt of a copy of this order.

7. Consequently, the impugned orders passed by the second respondent are quashed and the writ petition stands **allowed**. However, there shall be no order as to costs.

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Index : Yes
Speaking order
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To

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S.M.SUBRAMANIAM.J.,

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