



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.35749 of 2016
and W.M.P.Nos.30711 of 2016 and 21080 of 2017
(Through Video Conference)

P.M.Krishnamoorthy

..Petitioner

-Vs-

1. The Director,
Local Fund Audit,
Kuralagam, Chennai 600 108

2. The Assistant Director,
Local Fund Audit Department,
Municipal Pension Payment,
Kuralagam, 4th Floor, Chennai 600 108

3. The Branch Manager,
Canara Bank, Ammapettai Branch,
508-509, T.V.K.Road,
Salem 636 003

...Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for records relating to the second respondent's proceedings made in R.C.No.737/MPP(6)/ 2016 dated 01.06.2016, to quash the same and to consequently direct the respondents to permit the petitioner to avail the entire amount already deposited into his credit in the third respondent Bank.

For Petitioner : Mr.L.Chandrakumar

For RR-1 & 2 : Mr.C.Selvaraj,
Additional Government Pleader

For R-3 : No Appearance

O R D E R

Claiming that an excess amount of Rs.3,30,489/- has been paid as Family Pension to the petitioner herein, who is not entitled to receive such Family Pension, after crossing the age



of 25 years, the second respondent has passed the impugned order in R.C.No.737/MPP(6)/ 2016, dated 01.06.2016. Challenging the same, the present writ petition has been filed.

2.The petitioner's father, namely P.V.Manickam, who was employed with the third respondent Branch, died on 13.12.1989. The petitioner being the only son of his father, was sanctioned with the Family Pension by the respondents herein, which he was receiving continuously. Under Rule 49(6) of the Tamil Nadu Pension Rules, 1978, a son of the deceased employee would be entitled to receive Family Pension, till he attains the age of 25 years.

3.It is the case of the respondents that the petitioner did not reveal his actual age and continued to receive the Family Pension even after the expiry of 25 years of age and such excess amount is now sought to be recovered. The reason assigned in paragraph No.5 of the counter affidavit filed by the respondents 1 & 2 herein is that, by inadvertence, the Family Pension has been periodically sent from the office of the respondent to the credit of the petitioner's bank account.

4.Though the respondents have admitted it as their inadvertence, they seem to have shifted the blame on the petitioner stating that he had not revealed his actual age at that point of time. I am not in agreement with such a statement made. When the respondents had chosen to extend the Family Pension to the family members of a deceased employee, there was a duty cast upon them to verify the status of such family member, including the date of birth, particularly, in the case of a son, since there is a bar to receive the Family Pension after 25 years of age. Likewise, there is also a duty cast upon the respondents to have a check of the crucial date on which the family pensioner attains the age of 25 years.

5. In the instant case, having admitted that it was due to their inadvertence that the Family Pension was periodically sent from the respondent's office, the respondents are not justified in shifting the blame on the petitioner. However, since the mistake of excess payment seems to have been apparently happened owing to the inadvertence of the respondents 1 and 2 and also since the petitioner claims that he is in financial crisis and not in a position to repay, the first and second respondents herein, shall reconsider their decision to recover the excess payment made, by taking into account the amount which they have already recovered pursuant to the impugned order and then recover the amount or a portion of the remaining amount.

6.In light of the above observations, the impugned order of the second respondent made in R.C.No.737/MPP(6)/ 2016 dated



01.06.2016 is quashed and the matter is remitted back to the second respondent for fresh consideration. The second respondent herein, shall reconsider their decision and pass orders as expeditiously as possible, in any event within a period of three (03) months from the date of receipt of a copy of this order. Till such time the final orders are passed, the respondents 1 & 2 shall not initiate any coercive action for recovering the amount from the petitioner.

7. With these observations, the Writ Petition stands ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To:

1. The Director,
Local Fund Audit,
Kuralagam, Chennai 600 108
2. The Assistant Director,
Local Fund Audit Department,
Municipal Pension Payment,
Kuralagam, 4th Floor, Chennai 600 108

+1cc to M/s.L.Chandrakumar, Advocate, S.R.No.801

+1cc to the Government Pleader, S.R.No.1652

W.P.No.35749 of 2016

BP(CO)
RGA(25/02/2022)