

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8800 of 2014 &
M.P.Nos.1 and 2 of 2014

S.Sambandan

...Petitioner

..Vs..

1.The Accountant General,
Office of the Accountant General,
Nungambakkam, Annasalai,
Teynampet, Chennai.

2.Pension Pay Officer,
Pension Pay Office,
Nungambakkam,
Chennai-600 006.

3.Joint Director of Collegiate Education,
Chennai Region, IASE Campus,
No.577, Anna Salai, Saidapet,
Chennai - 600 015.

[R.3 impleaded vide Court order dated 22.06.2022
in W.M.P.No.31135 of 2019 by SMSJ]

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the 2nd respondent's letter dated 12.02.2014, quash the same as illegal and direct the respondents to refund the pension amounts that were deducted, for the months of January 2014 and February 2014.

For Petitioner : Mr.T.Mathi

For Respondents: No appearance (for R.1)
Mr.L.S.M.Hasan Fizal (for R.2 & R.3)
Additional Government Pleader

ORDER

The letter issued by the 2nd respondent on 12.02.2014 informing the writ petitioner that his pension was re-fixed and accordingly an excess payment of Rs.2,09,586/- is sought to be

recovered is under challenge in the present writ petition.

2. The petitioner is a retired professor and a pensioner. His pension was fixed as per the pay rules and in accordance with the Government orders. Regarding the fixation of pay, there was no mis-representation or otherwise on the part of the writ petitioner regarding the fixation of pay of salary or pension. While so, the petitioner was continuously receiving his pension, without any show cause notice or opportunity to the petitioner, unilaterally the respondents have effected the recovery from pension of the petitioner and thereafter the petitioner approached the respondents, who in turn informed through impugned letter dated 12.02.2014 stating that his pension was revised and consequently the recovery is also affected.

3. The learned counsel for the petitioner made a submission that the writ petitioner is now aged about 86 years old and he was a pensioner for many years. While so, without even issuing any show cause notice, the impugned letter has been communicated stating that his pension was revised and recovery is also sought to be effected.

4. This Court is of the considered opinion that any decision or order affecting the rights of an employee / pensioner is to be issued only after affording an opportunity to the pensioner concerned. The learned Additional Government Pleader is unable to establish such an opportunity was granted to the writ petitioner before taking a decision for re-fixation and recovery. Thus the impugned letter is in violation of principles of natural justice.

5. That apart, even in case excess amount of pension has been granted to the petitioner on account of erroneous fixation, the authorities competent are empowered to correct the errors in the fixation and pay the pension as applicable to the petitioner in accordance with the Government Orders and Rules in force. However, excess amount already paid to the petitioner cannot be recovered as the petitioner is a pensioner and in the event of such recovery it would result in hardship.

6. This being the factum established, the impugned letter issued by the 2nd respondent on 12.02.2014 is quashed and the respondents are directed to re-fix the pay and pension of the writ petitioner in accordance with Pay Rules and the Government Orders in force and continue to pay the correct pension as applicable to the writ petitioner, after issuing a show cause notice and providing an opportunity to defend his case. The amount already recovered from the petitioner is directed to be repaid within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

mrm/psa

To

- 1.The Accountant General,
Office of the Accountant General,
Nungambakkam, Annasalai,
Teynampet, Chennai.
- 2.The Pension Pay Officer,
Pension Pay Office,
Nungambakkam,
Chennai-600 006.
- 3.The Joint Director of Collegiate Education,
Chennai Region, IASE Campus,
No.577, Anna Salai, Saidapet,
Chennai - 600 015.

+2cc to Mr.T.Mathi, Advocate, S.R.No.39188

W.P.No.8800 of 2014

AK-II (CO)
SB(25/07/2022)