IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.24300 of 2019
and
W.M.P.No.24057 of 2019

H.Chevanan ... Petitioner

Vs.

1. The Accountant General,
   Office of the Accountant General,
   Teynampet,
   Chennai – 600 018.

2. The Treasury Officer,
   District Treasury Office,
   Ootacamund,
   The Nilgiris – 643 001.

3. The Sub-Treasury Officer,
   Kotagiri,
   The Nilgiris – 643 217. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, forbearing the respondents from making any deduction from the Pension Amount payable in Pension Payment

Order No.C105645/EDG.

For Petitioner : Mr.A.Bobblie

For Respondents :
For R1 : Mr.S.Balaji
For R2 & R3 : Mr.P.Gurunathan

ORDER

The order of recovery dated 29.07.2019, is sought to be quashed in the present writ petition.

2. The petitioner is a pensioner and retired as a Special Secondary Grade Teacher on 30.06.1999. The revision of pension was granted based on the Government Orders in force and there was no misrepresentation or otherwise on the part of the writ petitioner. Subsequently, there was an audit objection regarding the fixation of pension and based on the audit objection, the impugned order of recovery was issued on the ground that an over payment had been made in respect of the petitioner. No show cause notice was issued. However, the petitioner was called upon by the officials in person and they have informed about the excess payment of pension made to him.

3. Any order affecting the rights of a pensioner is to be passed after issuing a Show Cause Notice. In the present case, the petitioner was called directly by the Treasury officials, who in turn informed the petitioner about the audit objection. The said procedure is insufficient to comply with the principles of natural justice.

4. That apart, the petitioner is a pensioner and recovery of excess payment at this length of time would cause inconvenience to him at the old age. The pension is the only livelihood and recovery of huge amount would cause prejudice to the interest of the pensioner. Even, if such, excess payment has been made, the same cannot be recovered from the pensioner. Contrarily, the officials, who are responsible for erroneous fixation or excess payment is to be held accountable and liable.

5. In the present case, the petitioner has not committed any act of misrepresentation or otherwise. This being the factum, the order impugned is untenable. Accordingly, the impugned order passed by the third respondent in

proceeding No.ந.க.எண்.406/2019/டி1 dated 24.07.2019 is quashed. The amount already recovered from the pension of the petitioner, pursuant to the impugned order, is directed to be refunded to the writ petitioner within a period of eight (8) weeks from the date of receipt of a copy of this order.

6. It is made clear that the arrears, if any, in the fixation is to be corrected and the eligible pension is to be paid to the writ petitioner in accordance with the rules in force.

7. The writ petition stands allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

30.11.2022

Index:Yes/No
Speaking order/Non-speaking order
rgm

To

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S.M.SUBRAMANIAM, J.

rgm

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