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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 5349 of 2017

and

W.M.P. No. 5679 of 2017

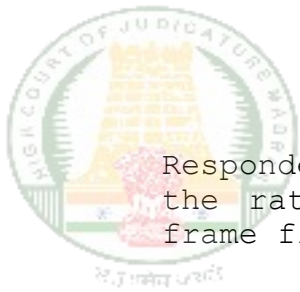
T. Savadamuthu

...Petitioner

-vs-

- 1.The Secretary to Government (Education),
Chairman,
Pondicherry Society for Higher Education,
Chief Secretariat,
Puducherry - 605 001.
 - 2.The Director of Higher and Technical Education,
Member Secretary,
Pondicherry Society for Higher Education,
PIPMATE Building,
Lawspet,
Puducherry - 605 008.
 - 3.The Principal,
Perunthalaivar Kamarajar College of Education,
Nehru Nagar,
Karaikal,
Union Territory of Puducherry.
 - 4.The Senior Accounts Officer,
Pondicherry Society for Higher Education,
PIPMATE Building,
Lawspet,
Puducherry - 605 008.
- ...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the Fourth Respondent in his proceedings No. 491/PONSHE/Estt./E2/2010 (PF1) dated 15.11.2016 and the consequential order passed by the Fourth Respondent in his proceedings No. 491/PONSHE/Estt./E2/2010 (PF1) dated 21.12.2016 in respect of the alleged excess claim of Transport Allowance for the period from 01.09.2008 to 30.06.2016 amounting to Rs.8,70,372/- and quash the same as illegal, without jurisdiction and in violation of principles of natural justice and consequently directing the Fourth



Respondent to refund the sum of Rs.8,70,372/- with interest at the rate of 12% per annum to the Petitioner within a time frame fixed by this Court.

For Petitioner : Mr. B. Saravanan
For Respondents : Mr. V.P. Chamuraj
for Mrs. V.Usha
Additional Government Pleader
(Pondicherry) (for R1)
: Mr. T. M.Naveen (for R2)

O R D E R

Heard Mr. B.Saravanan, Learned Counsel for the Petitioner, Mr. V.P.Chamuraj, Learned Additional Government Pleader (Pondicherry) appearing for the First Respondent and Mr. T.M.Naveen Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Proceedings No. 491/PONSHE/Estt./E2/ 2010 (PF1) dated 15.11.2016 and Proceedings No. 491/PONSHE/Estt.E2/2010 (PF1) dated 21.12.2016 passed by the Fourth Respondent in which the Petitioner has been informed that the sum of Rs. 9,62,592/- excessively paid to him has been recovered from cash equivalent of leave salary and a consequential direction is sought for refund of the sum of Rs. 8,70,372/-deducted towards excess payment of travel allowance along with interest at the rate of 12% per annum within a time frame fixed by the Court.

3. This Court at the time of admission on 03.03.2017 had granted an order of ad-interim stay of the impugned order.

4. It is trite law that any administrative action which involves civil consequences must be made consistently with the rules of natural justice, meaning thereby that the person concerned must be informed of the case with supporting evidence against him and he must be given a fair opportunity to meet the case before an adverse decision is taken. The Government of Tamil Nadu in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 after referring to the principles laid down by the Hon'ble Supreme Court of India in State of Punjab -vs- Rafiq Masih (Whitewasher) [(2015) 4 SCC 334], has issued detailed instructions providing the manner in which any excess amount paid to Government Servants/Pensioners/Family Pensioners would have to be made.

5. There is nothing to show in the impugned orders that before the excess payment claimed to have been made was effected, any show cause notice had been issued to the



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Petitioner calling for an explanation from him with supporting materials relied in that regard. Such incurable flaw in decision making by the Respondents is in violation of the principles of natural justice and would vitiate the impugned orders. In that view of the matter, the impugned orders passed by the Fourth Respondent are set aside leaving it open to the concerned authorities to appropriately deal with the matter following due process. It shall be incumbent upon the concerned authorities to issue show cause notice to the Petitioner along with working-sheet of the calculation for the excess payment claimed to have been made to him and after affording full opportunity of personal hearing to him and considering each of the objections that may be raised by him, a reasoned order shall be passed on merits and in accordance with law following the procedure laid down in the instructions in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 issued by the Government of Tamil Nadu, uninhibited and uninfluenced by the earlier order passed in the matter, and the decision taken shall be communicated to the Petitioner under written acknowledgement.

6. In the event of the concerned authorities failing to initiate fresh such proceedings within 31.07.2022, any amount so far recovered from the Petitioner pursuant to the impugned order, which has been set aside, shall be refunded to him under written acknowledgment and report of compliance in that regard shall be filed before the Registrar (Judicial) of this Court.

In fine, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kv

To

1. The Chairman,
The Secretary to Government (Education),
Pondicherry Society for Higher Education,
Chief Secretariat,
Puducherry - 605 001.
2. The Member Secretary,
The Director of Higher and Technical Education,
Pondicherry Society for Higher Education,
PIPMATE Building,
Lawspet, Puducherry - 605 008.



3. The Principal,
Perunthalaivar Kamarajar College of Education,
Nehru Nagar,
Karaikal,
Union Territory of Puducherry.

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4. The Senior Accounts Officer,
Pondicherry Society for Higher Education,
PIPMATE Building,
Lawspet, Puducherry - 605 008.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.

+1cc to Mr.T.M.Naveen, Advocate SR. No. 19841
+1cc to Mr.B.Saravanan, Advocate SR. No. 20484
+1cc to Government Pleader (Pondicherry) SR. No.20438

W.P. No. 5349 of 2017

SSN (CO)
PR (11/05/2022)