



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2022

CORAM

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

W.P. No. 22767 of 2017
and
W.M.P. No. 23893 of 2017
and
W.M.P. No. 6262 of 2019

S.Thiruva Gounder

... Petitioner

-vs-

1. The Government of Tamil Nadu,
Represented by the Secretary to Government,
Finance (P.C.) Department,
Fort St. George,
Chennai - 600 009.
2. The Principal Secretary/Commissioner (Pension),
Treasuries and Accounts,
Tamil Nadu,
Thadandar Nagar,
Nandanam,
Chennai - 600 035.
3. The District Treasury Officer,
Office of the District Treasury Office,
The Salem District Collector's Office Complex,
Salem, Salem District - 636 001.
4. The Sub-Treasury Officer,
Aathur,
Aathur Taluk,
Salem District - 636 103.

... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to reduction of monthly pension and recovery from the pension amount order in R.C. No. 1170/2017/IC1 dated 11.01.2017 passed by the Principal Secretary/Commissioner (Pension) Treasuries and Account of Tamil Nadu, Thadander Nagar, Nandanam, Chennai - 35 the Second Respondent herein, and quash the same insofar as the Petitioner is concerned and further direct the Fourth Respondent



to repay the pension amount so far recovered from the pension of the Petitioner from March 2017 to till date.

For Petitioner : Mr. K.Thennan

For Respondents : Mrs. C.Sangamithirai,
Special Government Pleader

WEB COPY

O R D E R

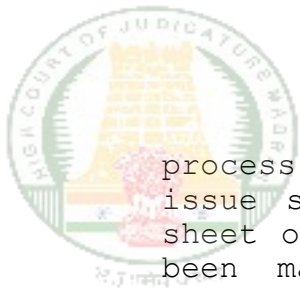
Heard Mr. K.Thennan, Learned Counsel for the Petitioner and Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Proceedings in R.C. No. 1170/2017/IC1 dated 11.01.2017 passed by the Second Respondent in which the Petitioner has been informed that the sum of Rs. 2,28,378/- excessively paid to him would be recovered from his pensionary benefits.

3. This Court at the time of admission on 28.08.2017 had granted an order of interim stay of the recovery alone, which continues to be in force as on date.

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 that either in the impugned order or in the Counter-Affidavit filed by the First Respondent that before the excess payment claimed to have been made was effected, any show cause notice had been issued to the 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 order. In that view of the matter, the impugned order passed by the Second Respondent is 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. Since it is represented that the Petitioner is now aged 85 years, he may engage the services of an Advocate to represent along with him in the enquiry.

7. In the event of the concerned authorities failing to initiate fresh such proceedings within 31.07.2022, any amount recovered so far 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 Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vjt

To

1. The Secretary to Government of Tamil Nadu,
Finance (P.C.) Department,
Fort St. George,
Chennai - 600 009.
2. The Principal Secretary/Commissioner (Pension),
Treasuries and Accounts,
Tamil Nadu,
Thadandar Nagar,
Nandanam,
Chennai - 600 035.



3. The District Treasury Officer,
Office of the District Treasury Office,
The Salem District Collector's Office Complex,
Salem,
Salem District - 636 001.

4. The Sub-Treasury Officer,
Aathur,
Aathur Taluk,
Salem District - 636 103.

Copy to

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

+lcc to Mr.K.Thennan Advocate, S.R.No.10917
+lcc to the Government Pleader, S.R.No.11545

W.P. No. 22767 of 2017

MG(CO)
SB(11/05/2022)