



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. 14878 of 2017
and
W.M.P. No. 16123 of 2017

K. Shanmugham

...Petitioner

-vs-

1.The State of Tamil Nadu,
Rep. by it Principal Secretary to Government,
Handlooms, Handicrafts Textiles and Khadi Department,
Chennai - 600 009.

2.The Khadi and Village Industries Board,
Rep. by its Chief Executive Officer,
Kuralagam,
Chennai - 600 108.

3.The Assistant Director,
Tamil Nadu Khadi & Village,
Industries Board,
Kancheepuram District.

...Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the Third Respondent herein vide his proceedings in Na.Ka. No. 236 of 2017 and quash the impugned order dated 24.05.2017 as highly illegal and violative of the principles of natural justice and further for a direction, directing Respondents herein to pay the arrears of pay to the petitioner as per the G.O.Ms. 237 dated 22.07.2013 along with the pension benefits.

For Petitioner : Mr. J.Ashok

For Respondents : Mrs. C.Sangamithirai (for R1)
Special Government Pleader

Mr. K.Bose (for R2 & R3)



O R D E R

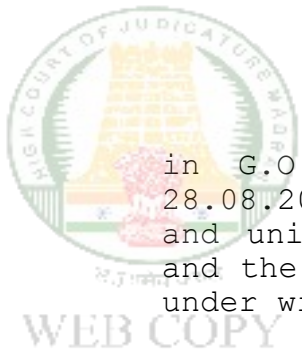
Heard Mr. J.Ashok, Learned Counsel for the Petitioner and Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the First Respondent and Mr. K.Bose, Learned Counsel for the Second and Third Respondents perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Proceedings in Na. Ka. No. 236/ 2017/E dated 24.05.2017 passed by the Third Respondent in which the Petitioner has been informed that the sum of Rs. 1,71,156/- excessively paid to him would be recovered from his pensionary benefits and a consequential direction is sought for payment of the arrears of pay as per G.O. Ms. No. 237, Finance (Pay Cell) Department dated 22.07.2013.

3. This Court at the time of admission on 14.06.2017 had granted an order of 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 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 Third 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. 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 (CCC)

//True Copy//

Sub Assistant Registrar

skr

To

1.The Principal Secretary to Government,
Handlooms, Handicrafts Textiles and Khadi Department,
Chennai - 600 009.

2.The Chief Executive Officer,
The Khadi and Village Industries Board,
Kuralagam, Chennai - 600 108.

3.The Assistant Director,
Tamil Nadu Khadi & Village,
Industries Board, Kancheepuram District.

Copy to

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

+1cc to Mr.J.Ashok, Advocate SR. No. 10710

+1cc to Government Pleader SR. No. 11550

W.P. No. 14878 of 2017

MG (CO)

PR (11/05/2022)