



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. 26404 of 2017
and
W.M.P. No. 28067 of 2017

T.Venkatasubramanian

...Petitioner

-vs-

- 1.The Principal Accountant General (A&E), Tamil Nadu,
Office of the Accountant General Office,
Teynampet,
Chennai - 600 018.
- 2.The Commissioner of Treasuries and Accounts,
Panagal Buildings,
Saidapet,
Chennai - 600 015.
- 3.The District Treasury Officer,
Kokkirakulam,
Tirunelveli - 627 009.
- 4.The Director,
Directorate of Technical Education,
Chennai - 600 025.

...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 in pursuant to impugned orders passed by the Third Respondent in his proceeding Na. Ka. No. 14616/2016/J2 dated 30.09.2016 and impugned recovery order bearing No. Se. Mu. Na. Ka. No. 14616/2016/J2 dated 14.11.2016 and quash the same as illegal and consequently direct the Respondents to repay the recovered amount with interest at the rate of 12% per annum.

For Petitioner : Ms. Ramani
for Mr. R.Subburaj

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



O R D E R

Heard Ms. Ramani, 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 father of the Petitioner, viz., M.Thothathiri, on his retirement from service was receiving pension and after his demise, the mother of the Petitioner, viz., R.Ponnammal, was paid family pension. It was informed by the Third Respondent in his Proceedings No. Na. Ka. 14616/2016/J2 dated 30.09.2016 to the said R.Ponnammal that certain excess payments have been made and she was called upon to return the same. The said R.Ponnammal by a representation dated 13.11.2016, which had been despatched by registered post on 18.11.2016, objected to the said claim made. In the meanwhile, the Third Respondent by Order No. Se. Mu. Na. Ka. 14616/2016/J2 dated 14.11.2016 had directed recovery of the excess amount and on 22.04.2017, the said R.Ponnammal had died. Thereafter, the Petitioner has challenged the Proceedings No. Na. Ka. 14616/2016/J2 dated 30.09.2016 and Order No. Se. Mu. Na. Ka. 14616/2016/J2 dated 14.11.2016 passed by the Third Respondent in this Writ Petition.

3. 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 have to be handled.

4. Having regard to the nature of grievance ventilated by the Petitioner, it is not the case of the Respondents that before the impugned recovery towards excess payment claimed to have been made was effected, any show cause notice has been issued to the said R.Ponnammal calling for an explanation from her with supporting materials in that regard. Such incurable flaw in the decision making process by the Respondents which is in violation of the principles of natural justice vitiates the impugned order and has to be set aside on that sole ground leaving it open to the concerned authorities to appropriately deal with the matter following due process. In that view of the matter Proceedings No. Na. Ka. 14616/2016/J2 dated 30.09.2016 and Order No. Se. Mu. Na. Ka. 14616/2016/J2 dated 14.11.2016 passed by the Third Respondent are set aside. The



concerned authority shall issue show cause notice to the Petitioner along with working-sheet of the calculation for the excess payment claimed to have been made 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 any of the earlier orders passed in the matter, and the decision taken shall be communicated to the Petitioner under written acknowledgment.

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

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

vjt

To

- 1.The Principal Accountant General (A&E), Tamil Nadu,
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+1cc to Government Pleader SR. No.11543

W.P. No. 26404 of 2017

PA (CO)

PR (06/04/2022)