BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.02.2022
CORAM:
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.796 of 2022
and
W.M.P.(MD) Nos.646 & 2331 of 2022

R.Ramakrishnan ... Petitioner

vs.

1.The Secretary to the Government
Department of Revenue
Fort St.George
Chennai

2.The Commissioner of Treasuries and Accounts
O/o.the Commissioner of Treasuries and Accounts
571, Anna Salai
Nandhanam
Chennai-600 035

3.The Assistant Treasury Officer
Sub-Treasury
Thiruchendur-628 215
Thoothukudi District ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records pertaining to the recovery order issued by the 3rd respondent in Na.Ka.No.402/A3/2020 dated 02.08.2021 and the subsequent order signed on 11.10.2021 with the same number and date and quash the same as illegal.

For Petitioner : Mr.P.Subbiah
For Respondents : Mr.A.K.Manikkam
Special Government Pleader

O R D E R

The order of recovery dated 02.08.2021, passed by the third respondent and its subsequent order, are under challenge in this writ petition.

2. The petitioner was working as Divisional Excise Officer and retired from service on 30.04.2000. The petitioner is now receiving pension. Surprisingly, the impugned order has been issued by the third respondent stating that there was an error in fixing the pension and therefore, the excess amount of Rs.1,96,987/- is to be recovered from the petitioner. According to the petitioner, no notice or opportunity was provided to the petitioner before issuing the impugned order.

3. In respect of recovery from the pensioners, in the absence of any misrepresentation or specific undertaking, the said excess amount cannot be recovered as per the decisions of the Honourable Supreme Court. In the event of such recoveries from the pension amount, the same would cause hardship as the pensioners are meeting out their livelihood only from and out of the pension amount.

4. Asfar as the present case is concerned, the petitioner was allowed to retire from service in the year 2000. Error, if any, in the fixation of pension can be corrected at any point of time. Such errors are to be rectified, however, the excess amount already paid cannot be recovered from the pensioners, after a lapse of so many years from the date of retirement.

5. This being the principle to be followed, this Court is inclined to pass the following orders:

(i) The writ petition is allowed.

(ii) The impugned orders dated 02.08.2021, passed by the third respondent, are quashed.

(iii) The respondents are directed not to recover any excess amount already paid to the petitioner on account of any such erroneous fixation of pension.

(iv) No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

1.The Secretary to the Government,
Department of Revenue,
Fort St.George, Chennai.

2.The Commissioner of Treasuries and Accounts,
O/o.the Commissioner of Treasuries and Accounts,
571, Anna Salai, Nandhanam, Chennai-600 035.

3.The Assistant Treasury Officer,
Sub-Treasury,
Thiruchendur-628 215,
Thoothukudi District.

+1 CC to M/s.SPL GP (SR-8064[F] dated 23/02/2022)

+1 CC to M/s.P.SUBBIAH, Advocate (SR-7929[F] dated 22/02/2022)

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SJ(CO)
KB(03.03.2022) 3P 6C