



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.2941 of 2022

and

W.M.P (MD) No.2575 of 2022

B.Shahul Hameed

... Petitioner

-vs-

1.The Treasury Officer,
Office of the District Treasury,
Sivagangai,
Sivagangai District.

2.The Regional Joint Director,
Treasury of Accounts,
Collectorate Building,
Madurai.

3.The Accountant General,
Office of the Accountant General,
361, Annasalai,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in impugned order of the first respondent in Na.Ka.125/2022/G1-1, dated 13.01.2022 and quash the same as Arbitrary illegal without authority of law and violative of principles of natural justice and direct the first respondent to refund the recovered amount already made from the pension of the petitioner.

For Petitioner : Mr.N.Tamilmani

For R1 & R2 : Mr.A.K.Manikkam
Special Government Pleader

For R3 : Mr.R.Saravanakumar



O R D E R

The order impugned, dated 13.01.2022, is under challenge in the present writ petition.

2. The petitioner is a retired Lecturer (Selection Grade) Chemistry Department. He retired from service on 30.04.2000 and receiving his pension. On account of excess payment, an audit objection was raised regarding the erroneous fixation and accordingly, the authorities competent initiated action for re-fixing the pay as applicable and to recover the excess pay already granted to the petitioner. It is needless to state that the excess pay can be recovered only if there is any misrepresentation on the part of the writ petitioner or there is an undertaking by the petitioner at the time of receiving pay, arrears of pay or otherwise.

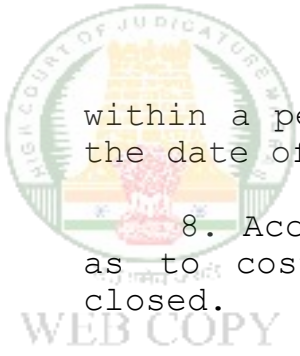
3. The learned counsel appearing for the petitioner made a submission that the impugned recovery has been made after a lapse of several years.

4. However, the learned counsel appearing on behalf of the Accountant General made a submission that the error kept in during effecting revision of pay and at the time of payment of arrears. Therefore, there is a possibility of undertaking during the relevant point of time. There is a specific format when effecting the revision of pay that the employees give undertaking in the event of excess pay or otherwise. Therefore, the petitioner has to come out with the clear facts on this.

5. A perusal of the impugned order reveals that the petitioner has been provided with an opportunity to submit all these referred documents in person within 5 working days, failing which, final decision will be taken. Therefore, the order impugned is an opportunity to the writ petitioner to defend his case.

6. Under these circumstances, the writ petition need not be entertained in respect of the impugned order, dated 13.01.2022 and it would be suffice, if the petitioner is provided with an opportunity to defend his case for taking a final decision and passing orders by the competent authority.

7. This being the factum, the writ petitioner is at liberty to submit his explanation/objections along with the document, if any, either in person or through registered post or otherwise within a period of 5 days from the date of receipt of a copy of this order. On receipt of any such representation, the respondents are directed to consider the explanation and further scrutinised the records with reference to the undertaking, misrepresentation or otherwise and thereafter, pass final orders on merits and in accordance with law,



within a period of two weeks from the date of expiry of 5 days from the date of receipt of copy of this order.

8. Accordingly, the writ petition stands disposed of. No order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Treasury Officer,
Office of the District Treasury,
Sivagangai,
Sivagangai District.

2.The Regional Joint Director,
Treasury of Accounts,
Collectorate Building,
Madurai.

+1 CC to M/s.N.TAMILMANI, Advocate (SR-6130[F] dated 15/02/2022)

+1 CC to M/s.SPL GP (SR-6507[F] dated 16/02/2022)

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15.02.2022

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