



W.P.(MD).No.12825 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

**W.P.(MD).No.12825 of 2019
and
W.M.P.(MD).No.9561 of 2019**

K.Rajiah

... Petitioner

Vs.

1.The Commissioner of Treasuries and Accounts,
3rd Floor, Integrated Office Complex for Finance
Department, Veterinary Hospital Campus,
Anna Salai,
Nandanam,
Chennai – 600 035.

2.The Treasury Officer,
District Treasury,
Virudhunagar,
Virudhunagar District.

3.The Assistant Treasury Officer,
Sub Treasury,
Srivilliputhur,
Virudhunagar District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent i.e., the Treasury Officer, District Treasury, Virudhunagar in his ந.க.எண்.5762/எண்1/2019 நாள் : 20.05.2019 and quash the same and consequently direct the first and second respondents i.e., the



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Commissioner of Treasuries and Accounts, Chennai and the Treasury Officer, District Treasury, Virudhunagar to disburse the arrears of VIIth Pay Commission to the petitioner within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam
For Respondents : Mr.G.Suriyananth,
Additional Government Pleader.

ORDER

The petitioner herein is the husband of the late K.Ponnammal, who had retired as a Secondary Grade Teacher on 28.02.1991. The petitioner is the receiver of the family pension of K.Ponnammal. Through the impugned order, dated 20.05.2019, the Treasury Officer of Virudhunagar had stated that owing to the special audit conducted by the Principal Secretary / Commissioner of Treasuries and Accounts, Chennai, a sum of Rs.5,27,037 is sought to be recovered for the excess payment of salaries paid to the wife of the petitioner between 01.01.2011 and 31.12.2018. Such an order of recovery from a family pensioner owing to the mistake committed by the Department is impermissible in view of the decision of the Hon'ble Supreme Court in the case of ***State of Punjab and others Vs. Rafiq Masih (White Washer) and others, reported in (2015) 4 SCC 334.***



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2. As per the aforesaid ruling, the recovery of excess payment of salaries made to the pensioners owing to the mistake of the Department is impermissible in law. If the ratio laid down in the aforesaid decision is applied, the contemplated recovery through the impugned order for the excess payment made owing to the mistake of the Department, is unsustainable.

3. Accordingly, the impugned order, dated 20.05.2019, on the file of the second respondent, insofar as it contemplates the recovery of excess payment of a sum of Rs.5,27,037/- is concerned, is quashed.

4. At this juncture, the learned counsel for the petitioner submitted that the petitioner is entitled for the scale of pay as ordered under the VIIth Pay Commission and owing to the present impugned order of recovery, the same has been withheld. It is needless to point out that since this Court had now quashed the impugned order of recovery, there is no impediment on the part of the respondents to forthwith extend the benefits of the VIIth Pay Commission to the petitioner.



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5. This Writ Petition stands allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

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Index : Yes / No
Internet : Yes/ No
Lm

To

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M.S.RAMESH, J.

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