



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.03.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

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W.P. (MD)No.14864 of 2019

and

W.M.P. (MD)No. 11368 and 21440 of 2019, 9676 of 2020

V.Saraswathi

... Petitioner

Vs.

1.The Principal Secretary / Commissioner,
Treasuries and Accounts Department,
Fort St. George, Secretariat,
Chennai - 600 009.

2.The District Treasury Officer,
District Treasury Office,
Karur - 639 007.

3.The Principal,
The Rajah's College,
Pudukkottai - 622 001.

...Respondents

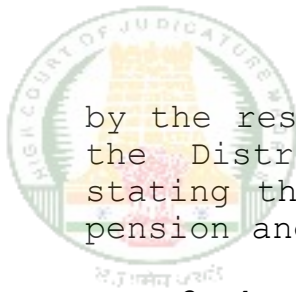
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order Na.Ka.En 5722 / Oo1 / 2017 dated 18.04.2018, issued by the 2nd respondent / District Treasury Officer and quash the same as illegal and consequently direct the 2nd respondent / District Treasury Officer to repay the deducted installments with appropriate interest thereof.

For Petitioner	: Mr.C.Masilamani
For R1 and R2	: Mr.M.Ramesh, Government Advocate.
For R3	: No appearance

ORDER

The order of recovery dated 18.04.2017 issued by the second respondent is under challenge in the present writ petition.

2.The husband of the writ petitioner Thiru.P.K.Karuppiyah was employed as Professor in History and retired from service on 31.07.1984. The petitioner is now receiving family pension as fixed



by the respondents. While so, the impugned order has been passed by the District Treasury Officer in proceedings dated 18.04.2017 stating that there was an erroneous fixation of pension and family pension and based on the audit objection, recovery is to be imposed.

3.The learned Additional Government Pleader appearing for the first and second respondents made a submission that the husband of the writ petitioner has given a letter. However, the husband of the writ petitioner died on 30.12.2014 itself, the impugned order has been passed in the year 2018 and the petitioner is continuously receiving family pension and therefore, even if any such letter of undertaking was given by the deceased husband of the petitioner long back, the same cannot be a factor for the purpose of recovering the excess payment of family pension, after a lapse of many years.

4.The Courts have repeatedly held that in respect of retired employee even if an excess payment is made erroneously, recovery cannot be imposed as the same would result in unnecessarily hardship to the family pensioners. In the present case, the petitioner who is a family pensioner, is aged about 81 years as of now and therefore, the recovery of such amount from the family pensioner would cause prejudice to the livelihood of the family pensioner and thus, this Court is inclined to consider the writ petition. Accordingly, the impugned order passed by the second respondent in proceedings Na.Ka.En 5722 / Ool / 2017 dated 18.04.2018, is quashed and it is made clear that the respondents shall not make any recovery of excess payment already paid to the deceased husband of the petitioner or to the petitioner through family pension. But, the respondents are at liberty to correct the erroneous fixation of pay if any and pay the correct family pension as applicable to the writ petitioner as per rules.

5.In view of the above, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Principal Secretary / Commissioner,
Treasuries and Accounts Department,
Fort St. George, Secretariat,

<https://hcservices.ecourts.gov.in/hcser/009>



2.The District Treasury Officer,
District Treasury Office,
Karur – 639 007.

+1 CC to M/s.SPL GP (SR-11867[F] dated 14/03/2022)

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and

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AM(CO)

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