**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: **14.02.2022**
CORAM:
THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
**W.P.(MD)No.21759 of 2019**
**and**
**W.M.P(MD)No.43 of 2020**

Mohan ... Petitioner

Vs.

1.The Accountant General,
Government of Tamil Nadu,
Chennai-18.

2.The Treasury Officer,
District Treasury,
Trichy.

3.The Assistant Treasury Officer,
Manachanallur,
Trichy District. ... Respondents

**PRAYER**: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impunged order in PEN 35/2/13508578/Rn/19-20, dated 22.08.2019 issued by the first respondent and subsequent impugned order passed by the third respondent in Na.Ka.No.1205/2019/A1,dated 25.09.2019 and to quash the same as illegal and consequently to direct the respondents to refund the deducted payments in respect of September 2019 for a sum of Rs.34,500/- to the Petitioner.

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|---|---|---|
| For Petitioner | : | Mr.RM.Arun Swaminathan |
| For R1 | : | Mr.P.Gunasekaran |
| For R2 and R3 | : | Mr.D.Sadiq Raja<br>Addl.Govt.Pleader |

**ORDER**

The order of recovery issued by the third respondent in proceedings dated 05.09.2019, is under challenge in the present writ petition.

2.The petitioner is a pensioner and his pension was revised as per the Pay Rule. However, based on the audit objection, pension was revised and the consequential recovery was imposed. Pursuant to the implementation of the revised pay, pension was also revised in the case of the writ petitioner. At the time of revision of pay, the petitioner has given an undertaking to repay the excess amount if any paid and identified. Subsequently, based on the undertaking, a show cause notice was issued to the writ petitioner and thereafter the impugned order of recovery was passed.

3.In the event of audit objection regarding the excess pay or fixation, the authorities competent are empowered to recover the same from the employees. Only restrictions that should be made in the event of extreme hardship. If the employee was working in Group-III and Group-IV, the benefit of recovery of excess payment alone is to be set aside. As far as re-fixation is concerned, the authority competent is empowered to revise the pay or pension in accordance with the Government Orders. The arrears found in the fixation is to be corrected and the revised pay or pension is to be paid.

4.Further, in the present case, at the time of revision of pay, the petitioner has submitted an undertaking that he will repay the excess amount if any. In view of the undertaking, the petitioner is not entitled for any relief and further, the impugned order of recovery was passed after issuing a show cause notice and re-fixation is done in accordance with the pay rules in force.

5.In this view of the matter, the order impugned passed by the first and third respondents on 22.08.2019 and 25.09.2019 are confirmed and hence, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD I)

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Sub Assistant Registrar(CS)

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To

1.The Accountant General,
Government of Tamil Nadu,
Chennai-18.

2.The Treasury Officer,
District Treasury,
Trichy.

3.The Assistant Treasury Officer,
Manachanallur,
Trichy District.

+1CC to SPL.GP(SR.No.6170)

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MGJ(03.03.2022) 2P 5C