



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.27288 of 2019

and

W.M.P. (MD) Nos.23568, 23569 of 2019 & 9583 of 2020

S.Santha

... Petitioner

vs.

1.The Principal Secretary /
Commissioner of Treasuries and Accounts Department
Integrated Finance Complex 3rd Floor
No.571, Anna Salai
Nandanam, Chennai

2.The Inspection Cell
Commissioner of Treasuries and
Accounts Department
Integrated Finance Complex 3rd Floor
No.571, Anna Salai
Nandanam, Chennai

3.The Additional Sub Treasury Officer
Sub Treasury
Srirangam, Trichy District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari to call for the records relating to the impugned order passed by the 1st respondent in RC.No.32348/IC1/2019, dated 30.09.2019 in so far as the petitioner is concerned and the consequential impugned recovery order passed by the 3rd respondent in Rc.No.758/A/2019 dated 17.10.2019 and quash the same.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.A.K.Manikkam
Special Government Pleader

O R D E R

The order dated 30.09.2019, passed by the first respondent and the consequential order dated 17.10.2019, passed by the third respondent are under challenge in this writ petition.



2. The petitioner is a family pensioner and the excess payment of family pension made to her is sought to be recovered.

3. The impugned order, dated 30.09.2019, has been passed by the first respondent based on the special inspection on pension records conducted by the Special Inspection Cell. Based on the report submitted by the Inspection Cell, the third respondent issued a notice, dated 17.10.2019, to the petitioner directing her to appear within a period of fifteen from the date of receipt of the notice. In the said notice it is clearly stated that if not possible to appear, the petitioner may accept the recovery.

4. This Court is of the opinion that even in such cases where the persons are not in a position to appear before the official concerned, then can very well submit their explanation / objection through registered post or through their authorized person. Contrarily, a writ petition need not be entertained in respect of such notices. When an opportunity is provided to the petitioner, it is to be availed for the purpose of objecting the recovery, if any. Therefore, the present writ petition is premature and the petitioner is at liberty to submit her explanation / objection in respect of the notice dated 17.10.2019.

5. In view of the fact that the writ petition is pending for about three years, the third respondent is directed to receive the explanation, if any, from the petitioner. The writ petitioner is directed to submit her explanation / objection along with documents, if any, within a period of three weeks from the date of receipt of a copy of this order. Thereafter, the third respondent is directed to consider the explanation by taking note of the decisions of the Honourable Supreme Court delivered in the matter of recovery of family pension and pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

6. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

1.The Principal Secretary /
Commissioner of Treasuries and Accounts Department,
Integrated Finance Complex 3rd Floor,
No.571, Anna Salai,
Nandanam, Chennai.

2.The Inspection Cell,
Commissioner of Treasuries and
Accounts Department,
Integrated Finance Complex 3rd Floor,
No.571, Anna Salai,
Nandanam, Chennai.

3.The Additional Sub Treasury Officer,
Sub Treasury,
Srirangam, Trichy District.

+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-6667[F] dated 17/02/2022)

+1 CC to M/s.SPL GP (SR-6806[F] dated 17/02/2022)

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