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W.P.No.19966 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.19966 of 2013

K.Vivekanandam

... Petitioner

Vs.

1. The Principal Accountant General [A & E]-Tamil Nadu,
Teynampet,
Chennai 600 018.
2. Secretary to Government,
Finance Department,
Fort St. George,
Chennai 600 009.
3. The Chief Internal Auditor and Chief Auditor of Statutory Boards,
Chengalvarayar Building,
7th Floor, No.807, Anna Salai,
Chennai 600 002.
4. The Pension Pay Officer,
Pension Pay Office,
Chennai 600 006.

... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus directing the first respondent to call for the records relating to the impugned order letter no.P03/2/40301029/8, dated 03.07.2013 and quash the same and direct the fourth respondent to stay all further recovery proceedings and re-credit the amount so far deducted on this count.



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For Petitioner : Mr.S.Namasivayam

For Respondents

for R1 : Mr.S.Balaji

for RR2 to 4 : Mr.V.Veluchamy, AGP

ORDER

This Writ Petition has been filed challenging the order of recovery passed by the first respondent dated 03.07.2013 against the petitioner.

2. Heard both sides and perused the materials available on record.

3. The petitioner after attaining the age of superannuation retired on 31.05.2009 as Assistant Director of Local Fund Audit in the scale of pay of Rs.8000-275-13500. The petitioner was sanctioned pension in P.P.O. No.C227150 and he is drawing a pension of Rs.18,725/-. When he was working as Inspector, Local Fund Audit, there was anomaly with respect to his Junior, who was getting more pay and on resolution of the problem, his pay was re-fixed on 10.09.2009. Consequently, the pay for the post of Assistant Director was also re-fixed on 10.09.2009. While so, he made an application for Commuted Value of Pension on 02.09.2009 and he was paid a sum of Rs.4,55,044/- as commutation.



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4. Subsequently, the first respondent vide proceedings dated 24.11.2009 and 21.12.2009, issued a clarification stating that all the employees, who retired from service between 01.01.2006 and 31.05.2009 are be eligible for commutation at the pre-revised table, which provides higher value. Thereafter, the petitioner submitted a representation on 15.03.2010 for commutation as per the old commutation table, for pre-revised pay, which amounts to Rs.5,24,282/-. Considering the request, the petitioner was paid the difference amount of Rs.69,238/-.

5. However, on 18.10.2012, the petitioner was issued with a show cause notice stating that the said amount was wrongly calculated and the same is liable to be recovered.

6. On a perusal of the counter filed by the first respondent, it reveals that as per G.O.Ms.No.234, Fin(PC) dated 01.06.2009, revised table of Commuted Value of Pension factor is applicable from 01.06.2009. The application for Commuted Value of Pension was submitted by the petitioner only on 02.09.2009 after re-fixation of his salary i.e. after a period of three months from his retirement. However, due to inadvertence, the respondent Department



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wrongly awarded Rs.5,24,282/- by applying old factor. The above mistake was committed only by the respondent Department and there was no fault on the part of the petitioner. Therefore, the impugned order cannot be sustained and it is liable to be quashed. Hence, the impugned order dated 03.07.2013 is quashed. Accordingly, the Writ Petition is allowed. No costs.

03.08.2023

Index : Yes / No
Speaking / Non Speaking order
pvs



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To

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