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W.P. No. 9635 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No.9635 of 2023

and

W.M.P. Nos. 9690 and 9691 of 2023

J.Amudha

... Petitioner

-VS-

1.The Principal Accountant General (A&E)
361, Anna Salai, Rostrever Garden
Teynampet, Chennai 600 018.

2.The Pension Pay Officer
Pension Pay Office
Nandanam, Chennai 600 035.

3.The Assistant Director (Administration)
Stationery and Printing Department
No.110, Anna Salai, Chennai 600 002.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 17.05.2022 made in Na.Ka.No.H1/2022 passed by the 2nd Respondent and to quash the same as illegal and consequently direct the 2nd Respondent herein to disburse the amount deducted from her pension to the Petitioner.



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For Petitioner : Mr. C.Prabakaran
For Respondents : Mr. B.Vijay,
Additional Government Pleader

ORDER

Heard Mr. C.Prabakaran, Learned Counsel for the Petitioner and Mr. B.Vijay Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Proceedings No. Na. Ka. H1/2022 dated 17.05.2022 passed by the Second Respondent in which the Petitioner has been required to remit the sum of Rs. 2,46,355/-, which has been excessively paid to her. It is further stated that the monthly pension of the Petitioner has been reduced from Rs. 32,839/- to Rs. 18,554/- from May 2022 onwards and in that backdrop, the consequential direction has been sought to refund of the deducted amount along with interest within such time limit as may be fixed by the Court.

3. It is trite law that any administrative action which involves civil



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consequences must be made consistently with the rules of natural justice, meaning thereby that the person concerned must be informed of the case with supporting evidence against him and he must be given a fair opportunity to meet the case before an adverse decision is taken. The Government of Tamil Nadu in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 after referring to the principles laid down by the Hon'ble Supreme Court of India in ***State of Punjab -vs- Rafiq Masih (Whitewasher)*** [(2015) 4 SCC 334] has issued detailed instructions providing the manner in which any excess amount paid to Government Servants/Pensioners/Family Pensioners would have to be made.

4. There is nothing to show in the impugned order that before the excess payment claimed to have been made was effected, any show cause notice had been issued to the Petitioner calling for an explanation from her with supporting materials relied in that regard. Such incurable flaw in decision making by the Respondents is in violation of the principles of natural justice and would vitiate the impugned order. In that view of the matter, the impugned order passed by the Second Respondent is set aside leaving it open to the concerned authorities to appropriately deal with the matter following due process. It shall be



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incumbent upon the concerned authorities to issue show cause notice to the

Petitioner along with working-sheet of the calculation for the excess payment claimed to have been made to her and after affording full opportunity of personal hearing to her and considering each of the objections that may be raised by her, a reasoned order shall be passed on merits and in accordance with law following the procedure laid down in the instructions in G.O. Ms. No. 286, Finance (Pension) Department dated 28.08.2018 issued by the Government of Tamil Nadu, uninhibited and uninfluenced by the earlier order passed in the matter, and the decision taken shall be communicated to the Petitioner under written acknowledgement.

5. In the event of the concerned authorities failing to initiate fresh such proceedings within 30.06.2023, any amount so far recovered from the Petitioner pursuant to the impugned order, which has been set aside, shall be refunded to her under written acknowledgment and report of compliance in that regard shall be filed before the Registrar (Judicial) of this Court.

In fine, the Writ Petition is ordered on the aforesaid terms. Consequently,



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the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No

Note: Issue order copy by 01.06.2023.

To

- 1.The Principal Accountant General (A&E)
361, Anna Salai, Rostrever Garden
Teynampet, Chennai 600 018.
- 2.The Pension Pay Officer
Pension Pay Office
Nandanam, Chennai 600 035.
- 3.The Assistant Director (Administration)
Stationery and Printing Department
No.110, Anna Salai, Chennai 600 002.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

kst

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