



W.P. No. 8119 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2023

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

W.P. No. 8119 of 2023

and

W.M.P. Nos. 8364 and 8365 of 2023

S.Majroon

... Petitioner

-VS-

1. The Commissioner of Police
Office of the Commissioner of Police
Greater Chennai Police
Veppery, Chennai – 7.
2. Additional Director General of Police
The Tamil Nadu Police Training Academy
Vandalur, Chennai.
3. The Additional Commissioner of Police
(Head Quarters)
O/o. Commissioner of Police
Vepery, Chennai – 600007.
4. The Deputy Commissioner of Police
(Head Quarters)
O/o. Commissioner of Police
Vepery, Chennai-600007.
5. Deputy Director (admin)
Tamil Nadu Police Academy
Oonamanchery
Vandaloor
Chennai – 600 127.



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6. The Administrative Officer
Pay Fixation, CPO officer
Fort St. George
Chennai – 600 009.

... 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 dated 22.11.2017 issued by the First Respondent and consequential order of recovery dated 30.11.2021 issued by the Second Respondent, to quash the same and to direct the Respondents to restore Petitioner pay as per revised pay fixation order in R.C. No. 104/11805/PF11/2013 dated 13.03.2013 and to resettle the recovered amount from Petitioner with due interest from the date of recovery.

For Petitioner : M/s. Kanimozhi Mathi
For Respondents : Mr. B.Vijay
Additional Government Pleader

ORDER

Heard Ms. Kanimozhi Mathi, Learned Counsel for the Petitioner and Mr. B.Vijay, Learned Additional Government Pleader appearing for the First to Sixth Respondents and perused the materials placed on record, apart from the pleadings of the parties.



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2. The Writ Petition challenges the Order in Na. Ka. No. 180/44424/Voo.Ni.Pi.2(1)/2017 dated 22.11.2017 passed by the First Respondent and the consequential Order in Na. Ka. No. Pi1/2315/93/2021 dated 30.11.2021 passed by the Second Respondent in which it has been informed to the Petitioner that the excess payment of Rs. 2,91,312/- made to her would be recovered from her salary in six monthly installments of Rs. 24,276/- each from December 2021 onwards and the remaining sum of Rs. 1,45,656/- from her terminal benefits, and she has sought for consequential directions to the Respondents to restore her pay as per revised pay fixation order in R.C. No. 104/11805/PF11/2013 dated 13.03.2013 and to refund the recovered amount from her with due interest from the respective dates when the same had been effected by the Respondents.

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



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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 orders. In that view of the matter, the impugned orders passed by the First and Second Respondents are set aside leaving it open to the concerned authorities to appropriately deal with the matter following due process. It shall be 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



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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 the Petitioner 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, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No

Note: Issue order copy by 01.06.2023.



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To

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Copy to

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



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P.D. AUDIKESAVALU, J.

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