



WEB COPY



W.P. No. 8398 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2023

CORAM

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

W.P. No. 8398 of 2023

T. Tamilselvi

... Petitioner

-VS-

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Municipal Administration and Water Supply Department,
Secretariat Building,
Chennai – 600 009.

2. The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai – 600 003.

3. The Assistant Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai – 600 003.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Impugned Order bearing Po.Thu.Na.Ka.No.B12/28392/2021 dated 21.11.2021 passed by the Third Respondent recovering a sum of Rs. 13,91,440/- by refixing pay scale and quash the same and consequently direct the Respondents herein to refund the recovered amount, restore the Selection Grade pay scale of Rs.9300-34800+4200/- notionally from



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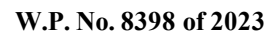
01.01.2006 and monetarily from 01.08.2010, revise and rework the pension and to pay the arrears on such reworking, along with consequential benefits.

For Petitione : Ms. G.Kiruthika
For Respondents : Mr. S.Rajesh, Government Advocate
(for R1)
Mr. S.Gopinathan
(for R2 and R3)

ORDER

Heard Ms. G.Kiruthika, Learned Counsel for the Petitioner, Mr. S.Rajesh, Learned Government Advocate appearing for the First Respondent and Mr. S.Gopinathan, Learned Counsel for the Second and Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Order in Po. Thu. Na. Ka. No. B12/28392/2021 dated 21.11.2021 passed by the Third Respondent in which the Petitioner has been informed that a sum of Rs. 4,000/- towards festival advance and Rs. 13,91,440/- towards excess payment made to her husband viz., S.Thanigaivel, who died on 17.05.2020, while in service would be recovered from his gratuity, with a consequential direction to the Respondents to refund



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 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



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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 Third Respondent is 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 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



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regard shall be filed before the Registrar (Judicial) of this Court.

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In fine, the Writ Petition is disposed on the aforesaid terms.

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

17.03.2023

skr

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 01.06.2023.

To

1. The Secretary to Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Secretariat Building,
Chennai – 600 009.
2. The Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai – 600 003.
3. The Assistant Commissioner,
Greater Chennai Corporation,
Rippon Building, Chennai – 600 003.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai.



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P.D. AUDIKESAVALU, J.

skr

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