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W.P. No. 12890 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM

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

W.P. No. 12890 of 2023

and

W.M.P. No. 12680 of 2023

R. Jayalakshmi

... Petitioner

-VS-

1. The Superintending Engineer,
TANGEDCO/Chengalpattu.

2. Assistant Audit Officer,
A.P. No. 3/Chennai South Region,
Audit Branch/TANGEDCO.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the First Respondent in Letter கு.எண்.025/மே.பொ/செ.மி.ப.வ/நி.அ/நி.பி.1/நி.மே/உ.2/கோ.தணிக்கை/2023 dated 03.04.2023 issued in pursuance of the audit report of the Second Respondent in audit Slip No. 65 dated 09.11.2022 and quash the same as illegal.

For Petitioner : Mr. M.Kempraj

For Respondents : Mr. David Sunder Singh,
Standing Counsel



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ORDER

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Heard Mr. M.Kempuraj, Learned Counsel for the Petitioner and Mr. David Sunder Singh, Learned Standing Counsel, who takes notice for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Proceedings in Ku. No. 025/Me.Po/Se. Mi.Pa.Va/NiA/NiPi1/NiMe/Vu2/Ko.Thanikai/2023 dated 03.04.2023 issued by the First Respondent in which it has been informed to the Petitioner that the excess payment of Rs. 12,92,041/- made to her would be recovered from her salary in monthly installments of Rs. 35,000/- each from April 2023 onwards.

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



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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 First 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



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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 acknowledgment.

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 Petition is closed. No costs.

25.04.2023

skr

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 30.05.2023



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To

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1. The Superintending Engineer,
TANGEDCO/Chengalpattu.
2. Assistant Audit Officer,
A.P. No. 3/Chennai South Region,
Audit Branch/TANGEDCO.

Copy to

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



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P.D. AUDIKESAVALU, J.

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