



WEB COPY



W.P.No.32531 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.32531 of 2022

and

W.M.P.No.31937 of 2022

V.Rajaram

... Petitioner

Vs.

1.The Commissioner of Treasuries and Accounts,
Integrated Complex for Finance Department,
Animal Husbandry Hospital Complex,
Nandanam,
Chennai – 600 035.

2.The Regional Joint Director of Treasuries and Accounts,
D.P.A. Society Building,
No.57, Bharathiyar Salai,
Fort Round Road,
Vellore – 632 001.

3.The Treasury Officer,
District Treasury,
Salem – 636 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records in pursuant to the 1st impugned order issued by the 3rd respondent in proceeding Na. Ka. No. 120536 / 2015 / F1 dated 04.12.2015, the 2nd Impugned order issued by the 3rd respondent in proceeding Na. Ka. No.



W.P.No.32531 of 2022

6891 / 2021 / F1 dated 28.12.2021, the 3rd impugned order issued by the 3rd respondent in proceeding Na. Ka. No. 6893 / 2021 / F1 dated 27.01.2022 and the 4th impugned order issued by the 3rd respondent in proceeding Na. Ka. No. 3713 / 2022 / N1 dated 03.06.2022 and quash these orders and consequently direct the Respondents to repay the amount already recovered.

For Petitioner : Mr.R.Prem Narayan

For Respondents : Mr.V.Jeevagiridharan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the orders of the 3rd respondent, dated 04.12.2015, 28.12.2021, 27.01.2022, 03.06.2022, ordering recovery of excess pension paid to the petitioner.

2.The petitioner states that he retired as Forest Range Officer on attaining the age of superannuation and he is receiving pension through District Treasury, Salem. While so, the 3rd respondent has passed the impugned orders of recovery of alleged excess pension from 23.07.2013 to 30.09.2021, namely a sum of Rs.2,10,597/-. It is the case of the petitioner that, based on G.O.Ms.No.234, Finance (Pay Cell) Department, dated



W.P.No.32531 of 2022

01.06.2009, pursuant to the 6th Central Pay Commission, the Government

issued G.O.Ms.No.235, Finance (Pay Cell) Department, dated 01.06.2009,

re-fixing the pension of the pensioners including retired Forest Rangers

based on the revised pay fixed in G.O.Ms.No.234. Thereafter, the

Government issued G.O.Ms.No.71, Finance (Pay Cell) Department, dated

26.02.2011, comprehensively revising the scale of pay of different

categories of staff working in various Departments in the Government of

Tamil Nadu. The pay of Forest Rangers were enhanced, whereas the

officers working in the Department of Agriculture, Department of Rural

Development and Panchayatraj, Department of Electrical Inspectorate,

were drastically reduced. Subsequently, the Government issued

G.O.Ms.No.242, Finance (Pay Cell) Department, dated 22.07.2013, based

on which, order of reduction of pay of Forest Rangers has been passed and

consequently, the alleged excess pension already paid has been

recovered vide the impugned orders. Challenging the same, the present

writ petition has been filed.

3.Heard the learned counsel for the petitioner and

Mr.V.Jeevagiridharan, learned Additional Government Pleader, appearing

for the respondents.



W.P.No.32531 of 2022

WEB COPY

4.The petitioner retired from service as Forest Ranger and originally, he was receiving pension as per G.O.Ms.No.235, Finance (Pay Cell) Department, dated 01.06.2009 and thereafter, as per G.O.Ms.No.71, Finance (Pay Cell) Department, dated 26.02.2011, his pension was upgraded and he had also been receiving the enhanced pension. It is relevant to note that the said Government Order in G.O.Ms.No.71 was put to challenge before this Court in W.P.No.7006 of 2011, etc., batch and this Court, by common dated 08.03.2012, dismissed the writ petitions. Challenging the said order, a batch of Writ Appeals in W.A.Nos.504 of 2012, etc. batch, were filed before the Division Bench of this Court. During the pendency of the appeals, the Government issued G.O.Ms.No.242, Finance (Pay Cell) Department, dated 22.07.2013, thereby reducing the pay of the Forest Rangers and the said Government Order in G.O.Ms.No.242 also was challenged before the Division Bench of this Court.

5.The Division Bench of this Court, by a common judgment in W.A.Nos.504 of 2012, etc., batch, dated 27.02.2014, passed the following order :



W.P.No.32531 of 2022

WEB COPY

“51. In such circumstances, the writ appeals and writ petitions are disposed of with the following directions:

(i) The Government shall constitute a Pay Grievance Redressal Committee under the Chairmanship of Hon'ble Mr. Justice A.S. Venkatachalamoorthy, formerly Judge of this Court, who was elevated and retired as Chief Justice of the Chattishgarh High Court.

(ii) The Government is at liberty to nominate one or two Senior level IAS Officers at the level of Principal Secretary, serving/retired as Member(s) of the Pay Grievance Redressal Committee.

(iii) The Pay Grievance Redressal Committee shall be given specific terms of reference by the Government, with a request to submit a report/recommendations for taking fresh decision regarding the enhancement/reduction of the pay scales/grade pay of 52 or more categories of 20 or more departments, etc.

(iv) The Government is directed to constitute the above said committee within a period of three weeks from the date of receipt of copy of this order, prescribing time limit, within which report/recommendations is to be submitted for taking fresh decision.

(v) In view of the constitution of the above said Committee as ordered above, the implementation of



WEB COPY



W.P.No.32531 of 2022

G.O.Ms.No.71 dated 26.2.2011 and G.O.Ms.No.242 dated 22.7.2013 insofar as it affects any category of Government Servants/ pensioners/family pensioners, which are not implemented as on today shall not be implemented till fresh decision is taken.

(vi) If any of the categories of Government servants of any department, who have been offered higher scales of pay as on today, it is open to the Government to implement the same insofar as the pay scales, which are beneficial to the employees of such categories.

(vii) As we have appointed the Chairman of the PGRC, we direct the Government of Tamil Nadu to make available office premises with supporting staff and to provide a Government car with driver for the use of the Chairman for effective functioning of the Committee.

(viii) We fix the remuneration for the Chairman of the Committee as Rs.1.50 lakhs per month and direct the Government to sanction necessary funds towards remuneration and for meeting other expenses for effective functioning of the Committee.

(ix) It is open to the Government to fix remuneration of the Members/Member of the Committee, to be nominated by the Government, if they are retired IAS officer(s).

(x) There is no order as to costs.

(xi) Connected miscellaneous petitions are



W.P.No.32531 of 2022

closed.”

WEB COPY

6.The above order of the Division Bench of this Court was taken on appeal before the Hon'ble Supreme Court in Civil Appeal No.10029 of 2017. The Hon'ble Apex Court, while disposing the appeal on 28.11.2019, has issued the following directions :

“19.It is clarified that regardless of the decision to be taken by the PGRC, any amount paid by way of financial benefit extended to and enjoyed by the concerned employees shall not be recovered i.e. to say that in case the decision in pursuance of the recommendations of the PGRC results in reduction in pay-scales or emoluments as were granted pursuant to GOs dated 26.08.2010, such reduction shall be prospective in application from the day the recommendations of the PGRC come into effect.”

7.In the light of the judgments extracted *supra*, the pay recovery pursuant to the orders passed in G.O.Ms.No.242, Finance (Pay Cell) Department, dated 22.07.2013, cannot be sustained in the eye of law. At the most, if any report of the Pay Grievance Redressal Committee is sought to be implemented, the same has to be implemented prospectively and any amount already paid cannot be recovered as per the above directions of the



W.P.No.32531 of 2022

Hon'ble Supreme Court. In such view of the matter, the impugned orders directing recovery of amount already paid, are liable to be set aside.

Accordingly, the impugned orders passed by the 3rd respondent are set aside. It is made clear that any pay reduction can be operated only prospectively as per the above directions of the Hon'ble Apex Court.

8. Accordingly, this writ petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

20.09.2023

mkn

Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order

To

1. The Commissioner of Treasuries and Accounts,
Integrated Complex for Finance Department,
Animal Husbandry Hospital Complex,
Nandanam,
Chennai – 600 035.

2. The Regional Joint Director of Treasuries and Accounts,
D.P.A. Society Building,
No.57, Bharathiyar Salai,
Fort Round Road
Vellore – 632 001.



W.P.No.32531 of 2022

3.The Treasury Officer,
District Treasury,
Salem – 636 001.



WEB COPY



W.P.No.32531 of 2022

N. SATHISH KUMAR, J.
mkn

W.P.No.32531 of 2022

20.09.2023