



W.P.(MD)No.2354 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.2354 of 2021

and

W.M.P.(MD)No.1955 of 2021

G.Ramiladevi

... Petitioner

Vs.

1.The Additional Registrar General,
Internal Audit Wing,
Madurai Bench of Madras High Court,
Madurai-625 023

2.The Learned Sessions Judge,
Mahalir Neethimandram,
Madurai

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in A.No.5/2021 dated 19.01.2021 passed by the 2nd respondent and quash the same.

For Petitioner : Mr.R.Maheswaran
For Respondents : Mr.G.Thalaimutharasu



W.P.(MD)No.2354 of 2021

ORDER

WEB COPY

(Order of the Court was made by ***S.M.SUBRAMANIAM, J.***)

The order of refixation and recovery of excess salary paid to the petitioner is sought to be quashed in the present writ petition.

2.The writ petitioner was appointed as Copyist through Employment Exchange and now she is working as a Special Grade Typist in Mahalir Neethimandram, Madurai. The petitioner was awarded with one incentive increment of Rs.85 with effect from 31.05.1999 for passing the departmental tests. While so, the second respondent passed an order of recovery of excess salary paid to the petitioner based on the audit objections.

3.The learned counsel for the petitioner contended that there was no misrepresentation or otherwise on the part of the petitioner and the incentive increment was granted to the petitioner based on the Government Orders. That being so, the order of recovery would cause prejudice to the petitioner.

4.The respondents have clarified that an employee, who had relinquished the right of promotion is not entitled to draw incentive increment as per the Policy.



Admittedly, in the present case, the petitioner relinquished her right of promotion on 12.10.2000. That being so, the petitioner is not entitled to claim incentive increment based on the Government Orders.

5.The petitioner was allowed due to retire from service on 30.04.2023. The Counter affidavit filed by the respondent reveals that there is no misrepresentation or otherwise on the part of the petitioner at the time of drawing incentive increment.

6.The authorities competent are empowered to refix the pay, if any error has been committed. However, imposing recovery would cause prejudice to the petitioner. In view of the facts and circumstances, we are not inclined to interfere with the order of refixation done, but inclined to interfere with the order of recovery alone.

7.Accordingly, the respondents are directed to verify the correctness of the refixation and disburse the pay and pension as applicable to the petitioner in accordance with the Pay Rules. However, excess salary or pension already paid shall not be recovered from the petitioner.



W.P.(MD)No.2354 of 2021

8.In the result, the order impugned in this writ petition in order A.No.5 of 2021 dated 19.01.2021 is set aside only with reference to the recovery portion alone and the writ petition stands partly allowed. However, this order will not stand as a precedent for seeking cancellation of recovery in other cases. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) & (V.L.N., J.)
06.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
ta



WEB COPY



W.P.(MD)No.2354 of 2021

S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

ta

W.P.(MD)No.2354 of 2021

06.12.2023