



W.P.(MD) No.9422 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :09.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.9422 of 2020
and WMP(MD) No.8548/2020

S.Arumugam

... Petitioner

-VS-

1.The Accountant General (A&E)

O/o.The Accountant General

No.361, Anna Salai

Teynampet, Chennai.

2.The Director of Agriculture,

O/o.The Director of Agriculture,

Chepauk, Chennai.

3.The Treasury Officer,

O/o.The District Treasury Officer,

District Collectorate Campus,

Korampallam, Thoothukudi,

Thoothukudi District.

4.The Additional Treasury Officer

O/o.The District Treasury Officer,

District Collectorate Campus,

Korampallam, Thoothukudi,

Thoothukudi District.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorarified Mandamus to call for the



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records of the 4th respondent relating to proceedings in Na.Ka.No. 4607/2020/E1 dated 25.07.2020 and quash the same and to consequently forbear the respondents herein from recovering any amount from the petitioner pension account PPO No.C267533 in future.

For Petitioner : Mr.P.Samuel Gunasingh
For Respondents : Ms.K.Christy Theboral for R2 to R4
Additional Government Pleader
Mr.P.Gunasekaran for R1

ORDER

The writ petition has been filed challenging the proceedings of the 4th respondent dated 25.07.2020 and to forbear the respondents herein from recovering any amount from the petitioner's pension account.

2. The facts, which are necessary for the disposal of the writ petition, are as follows:

The petitioner joined the service of the 2nd respondent department as Deputy Agricultural Officer on 31.08.1973. At the time of retirement, he held the post of Joint Director of Agriculture and retired on 31.03.2008. From the year 2019, a sum of Rs.61,928/- was disbursed towards pension. However, after the 7th pay commission



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recommendation, the pension was reduced to Rs.53,269/-, which is without prior notice. Hence, the petitioner filed W.P.(MD) No.7205/2020 for forbearing the respondents from withholding and for effecting recovery, which was disposed of on 02.07.2020 by directing the respondents to issue proper show cause notice. However, the 4th respondent vide impugned order dated 25.07.2020, ordered for recovery of alleged excess payment of pension paid to him to the tune of Rs.2,14,386/- from 01.10.2017 to 31.12.2019 by stating that the said amount would be recovered from his pension from July 2020 till April 2021, for which, the petitioner sent his objections on 30.07.2020 and subsequently, filed the present writ petition challenging the impugned order of recovery.

3. The learned counsel for the petitioner would submit that admittedly, the petitioner retired in the year 2008. Thereafter the benefits were paid upto the year 2019 and thereafter, claiming that excess payments were paid and in order to recover the same, the respondents passed the recovery order. He would further submit that without following due procedure and without hearing and without giving



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opportunity to the petitioner, the recovery order is passed, which is violation of principles of natural justice. The learned counsel would further submit that since there is a prima facie case, at the time of admission, this Court granted stay of the order. Hence, prays for interference.

4. The learned Additional Government Pleader would submit that admittedly without issuing notice and without giving opportunity to the petitioner, the impugned order is passed and hence, the impugned order may be set aside and a direction may be issued to the respondents to pass orders afresh.

5. In view of the consent given by both sides, this writ petition is disposed of in the following terms:

(i) Since the impugned order is passed without following due procedure and without hearing and without giving opportunity to the petitioner, the same is set aside and the matter is remanded back to the 4th respondent;

(ii) The petitioner is directed to submit his explanation within a



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period of two weeks from the date of receipt of a copy of this order; and

(iii) On receipt of the explanation from the petitioner, the fourth respondent is directed to hear the petitioner and pass appropriate orders within a period of four weeks thereafter.

No costs. Consequently connected Miscellaneous Petition is closed.

09.01.2023

NCC : Yes/No

Index : Yes/No

RR

To

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Teynampet, Chennai.

2.The Director of Agriculture,
O/o.The Director of Agriculture,
Chepauk, Chennai.

3.The Treasury Officer,
O/o.The District Treasury Officer,
District Collectorat Campus,
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Thoothukudi District.

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M.DHANDAPANI, J.

RR

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