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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:09.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.5795 of 2018

A.Jayabalan ... Petitioner

Vs.

1.The District Collector,
Virudhunagar District.

2.The Superintendent of Police,
Virudhunagar District.

3.The Sub-Treasury Officer,
Sathur,
Virudhunagar District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the third respondent in Na.Ka.528/2017/T2 dated 28.12.2017 and quaash the same and consequently direct the respondents 1 and 2 to refund the recovered amount of Rs.47,068/- with interest from the date of recovery made on 28.09.2007 to the petitioner.

For Petitioner : Mr.A.Rajaram
For Respondents : S.P.Mahararajan,
Special Government Pleader

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ORDER

This Writ petition has been filed to quash the impugned order passed by the fourth respondent in No.331/1/URC/staff/corres/dated 25.01.2018.

2. The case of the petitioner is that the petitioner is a retired Head Constable. He retired on 28.02.2006. After retirement, on verification of records, as it was found that he got excess pension, recovery proceedings was initiated and the entire excess amount paid was recovered from the petitioner's pension amount. After completion of the recovery proceedings, the petitioner realized that the recovery made is bad in law. Hence, he made a representation on 12.12.2017, before the 1st and 2nd respondents, requesting to refund the amount recovered from him. However, the third respondent passed the present impugned order rejecting the request of the petitioner. Challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

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3. The learned counsel appearing for the petitioner would submit that admittedly, the petitioner employed as Head Constable and retired from service on 28.02.2006 and thereafter, the respondents claimed that they have paid excess pension to the petitioner, for which, recovery proceedings was initiated and the entire excess amount paid to the petitioner to the tune of Rs.47,068/- was recovered from him. Hence, the petitioner made a representation and the said representation was rejected, which is not sustainable and hence, prayed for allowing of this writ petition.

4. The learned Special Government Pleader appearing for the respondents would submit that the Government have issued Orders in G.O.Ms.No702 Finance (P) Department, dated 07.10.1998, stating that the Government dues including overpayment of pension/family pension can be recovered from the pensioner/family pensioner. In this case, recovery order was passed vide order dated 28.09.2007 and the excess payment of Rs.47,068/- was recovered for the period from 01.03.1006 to 31.08.2007 in sixteen installments in accordance with the relevant Rules in force at the point of time. At the time of initiating recovery

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proceedings, the petitioner has not raised any objection for the said recovery. However, the petitioner has made a request claiming refund, after a lapse of ten years and the same was rightly rejected by the fourth respondent and the same does not warrant interference at the hands of this Court.

5. Heard the learned counsel for the petitioner, the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

6. Admittedly, the petitioner retired from service on 28.02.2006 and inadvertently, excess pension was paid to the petitioner for the period from 01.03.1006 to 31.08.2007, for which, recovery order was passed on 28.09.2007 and the entire excess amount paid to the petitioner was recovered in sixteen installments and recovery was made during the year 2007-2008. However, after a lapse of a decade, the petitioner has made a representation on 12.12.2017 seeking refund of the amount recovered from him, which is not sustainable on the ground of delay and laches and further, the petitioner has also admitted the excess pension amount

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received by him and hence, there is no justification in the claim made by the petitioner and as such, there is no irregularity or illegality in the order passed by the fourth respondent, which is impugned in this writ petition and hence, this writ petition is liable to be dismissed.

7. In the result, this writ petition is dismissed. No Costs.

09.02.2023

Index: Yes/No
Internet: Yes/No
pm
To:

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M.DHANDAPANI, J.

pm

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