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W.P.(MD)NO.10270 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.10270 of 2015 AND
W.M.P.(MD)No.8714 of 2017

1. N.Senthilkumar

2. B.Usharani

3. R.Bhavaneswari

4. S.Karunya

5. N.Manikandan

... Petitioners

Vs.

1. The District Collector,
Karur District, Karur.

2. The Revenue Divisional Officer,
Kulithalai,
Karur District.

3. The Tahsildar,
Kulithalai Taluk,
Karur District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.A6/5618/2013 dated 12.05.2015 and quash the same.



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For Petitioner : Mr.M.Saravanan

For Respondents : Mr.SR.A.Ramachandran,
Additional Government Pleader.

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ORDER

Heard the learned counsel on either side.

2. The writ petitioners' father Shri.T.S.Natarajan was a Government servant. When he was working as Revenue Inspector, disciplinary proceedings were initiated against him. The charge was that he caused loss to the Government by not remitting the kist amount collected from ryots. The proceedings finally ended in the year 2011. The Government issued G.O.(2D)No.12 Revenue (Service-6(1) Department dated 04.01.2011 holding that the charges framed against the delinquent was proved and as punishment a sum of Rs.750/- per month was directed to be deducted as permanent cut from his monthly pension. The petitioner's father passed away on 15.02.2012. By then only a sum of Rs.10,055/- had been recovered. In order to recover the balance amount of



Rs.97,781/-, the impugned communication was issued by the Tahsildar, Kulithalai, calling upon the petitioners to pay the said amount; in the event of default, recovery action was to be taken against the properties of the deceased Natarajan. Challenging the same, this writ petition came to be filed.

3. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned communication and grant relief as prayed for.

4. The respondents have filed counter affidavit and the learned Additional Government Pleader took me through its contents. The stand of the respondents is that the petitioners' father had committed misappropriation to the tune of Rs.1,07,836/-. Since only a sum of Rs.10,055/- had been deducted from his monthly pension, for recovering the balance amount, the Government has to proceed against the estate of the deceased delinquent employee. The learned Additional Government Pleader submitted that the petitioners are legally



bound to settle their father's liability. The learned Additional Government Pleader called for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. No doubt, the charge against the petitioner's father was that he had misappropriated a certain sum of money. He was also eventually found guilty. As per Rule 8 of THE TAMIL NADU CIVIL SERVICES (DISCIPLINE AND APPEAL) RULES, the disciplinary authority can impose any of the punishments catalogued therein. These penalties can be imposed on a serving employee and not on a retired employee. The petitioners' father was allowed to retire. The punishment was therefore, imposed on him as per Rule 9(1)(b) of The Tamil Nadu Pension Rules. In case of pecuniary loss caused to the Government, the authority could have ordered recovery from pension or DCRG. In this case, recovery was ordered from the petitioners' father's pension. Such recovery could be effected till the amount in question is recovered in full or till the death of the pensioner whichever is earlier. Following the demise of



the petitioners' father, the order worked itself out. It ceased to operate thereafter. No recovery could have been made from his estate. The rule speaks of recovering the loss from pension or DCRG and no third mode of recovery has been indicated. What is not set out in the rule cannot be supplanted. The impugned communication is without jurisdiction. It stands quashed. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

19.07.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

1. The District Collector,
Karur District, Karur.
2. The Revenue Divisional Officer,
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3. The Tahsildar,
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G.R.SWAMINATHAN,J.

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