



W.P.No.4877 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.4877 of 2021

and W.M.P.Nos.5482, 5483 & 5484 of 2021 and 19481 of 2021

Sengan

...Petitioner

Vs.

1. The Director General of Police,
The Director General Prisons and
Correctional Services,
Whannels Road,
Egmore, Chennai-8

...Respondents

2.The Accountant General (A&E)
361, Anna Salai,
Chennai-600 018

3.The Superintendant
Central Prison,
Salem-7.



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4.The Treasury Officer,
District Treasury,
Salem.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, praying to call for the records, leading to the order issued by the 2nd respondent in his Letter No. Pen 6/2/PPT 16605 dated 29.12.2020 and quash the same and consequently direct the 4th respondent to not to effect recovery from the pension of the petitioner and consequently direct the 1st, 2nd and 3rd respondents to award nominal damages each Rs.25,000/-(Rupees Twenty Five Thousand only) totalling Rs.75,000/- (Rupees Seventy Five Thousand only) together with costs thereof to the petitioner.

For Petitioner : Mr.R.Thomas

For RR1, R3 & R4 : Mr.E.Ranganayaki

For R2 : Mr.V.Vijayashankar

ORDER

The petitioner, who was originally appointed as Grade II Warder on 27.03.1974 in Prison Department was promoted from time to time, finally retired from service on attaining the age of superannuation on 28.02.2011 in



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the cadre of Deputy Jailor and the pensionary benefit was settled. While being so, the impugned letter dated 29.12.2020 came to be issued by the 2nd respondent ordering for recovering an amount Rs.73,3,29.80/- from the pension of the petitioner in monthly instalments towards legitimate loss to the Government.

2. Aggrieved by the said letter dated 29.12.2020 issued by the 2nd respondent, the petitioner approached this Court by filing this present writ petition.

3. From the impugned order itself it is evident that the petitioner retired from service on attaining the age of superannuation on 28.02.2011 and the impugned letter was issued on 29.12.2020, that is almost after lapse of about 9 years. In the impugned letter there is nothing to indicate that the petitioner was put on notice before issuing the said letter ordering recovery of certain amount from the pension of the petitioner.

4. Pension is the property of the petitioner guaranteed under Article



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300A of the Constitution of India. In case, the respondents are of the view that the petitioner is liable for payment of any amounts or any recovery sought to be affected from the pension of the petitioner, the respondents are under legal obligation to follow the procedure especially the principles of natural justice. From the perusal of the impugned letter there is nothing to indicate that the respondents have followed any such procedure before issuing the impugned letter dated 29.12.2020. Further, pension of the petitioner, who retired on 28.02.2011, is sought to be revised by the impugned letter after a period of 9 years. Whether any such action can be initiated against a person who is not in service is also a matter which needs to be examined by the respondent Authority before initiating any such proceeding against the petitioner.

5.As its evident from the impugned proceeding, the same is issued in violation of the principles of natural justice, hence this Court is of the considered view that the impugned letter cannot be sustained under law and the same is accordingly set aside, on the ground of violation of principles of natural justice.



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6. In the result, the writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No Costs.

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vsn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

MUMMINENI SUDHEER KUMAR, J.



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