



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.6551 of 2024

S.Muruganantham

... Petitioner

Vs.

1. The Registrar General,
Hon'ble High Court of Madras,
Chennai – 104.

2. The Principal District Judge,
Villupuram.

3. The Principal District Munsif,
Ulundurpet.

4. The Sub-Treasury Officer,
Ulundurpet.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent office order No.16/2023 dated 03.03.2023 quash the same and to direct the 3rd respondent to continue to disperse the same allowance without any reduction of recovery.

For Petitioner

For R1 to R3

For R4

: Mr.K.Bharathi

: M/s.B.Poongkulali

: Mrs.P.Raja Rajeswari,



Government Advocate

ORDER

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

The Writ Petition has been filed calling for the records of the 3rd respondent office order No.16/2023 dated 03.03.2023, quash the same and to direct the 3rd respondent to continue to disperse the same allowance without any reduction of recovery.

2. The petitioner joined as Junior Assistant on 01.02.2010. He reached the age of superannuation on 31.05.2022 and was allowed to retire from service. It is not in dispute that the writ petitioner was promoted as Assistant on 15.03.2019. He was deployed to the post of Bench Clerk Grade III on 11.06.2020. On deployment, additional increments were granted along with pay, which was subsequently found as excess by the Audit Wing of the High Court. The posts of Assistant and Bench Clerk Grade III carry identical scale of pay and therefore, deployment of an Assistant to the post of Bench Clerk Grade III would not carry any additional increment. Thus, the revision of scale of pay granted to the writ petitioner was found to be erroneous. Based on the audit objection, the pay was revised accordingly and excess salary paid to the petitioner was sought to be recovered from the pensionary benefits. The respondents are unable to establish that there was a misrepresentation or the petitioner had given an undertaking at the time of



revision of scale of pay. In the absence of any one of these aspects, recovery of excess salary after the retirement would result in hardship to the employees, who all are working in Group-C and Group-D cadre. The writ petitioner was holding the post of Group-D cadre and admittedly, allowed to retire from service. Thus, the recovery of excess pay would result in extreme hardship and therefore, we are inclined to set aside the recovery order. However, the revision of pay granted in accordance with the Pay Rules and Government Orders are upheld.

3. In view of the facts and circumstances, the revision of pay effected pursuant to the Audit Objection is confirmed, but the recovery of excess pay alone is set aside. The excess amount recovered on account of the impugned order alone is directed to be re-paid to the petitioner within a period of 12 weeks from the date of receipt of a copy of this order. Accordingly, the impugned order is quashed, only with reference to the recovery of excess salary alone.

4. Accordingly, the Writ Petition stands partly allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

(S.M.S.,J.) (K.R.S.,J.)
20.03.2024

skr
Index : Yes

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Speaking order
Neutral Citation : Yes

W.P.No.655



S.M.SUBRAMANIAM, J.
and
K.RAJASEKAR, J.

skr

To

1. The Registrar General,
Hon'ble High Court of Madras,
Chennai – 104.
2. The Principal District Judge, Villupuram.
3. The Principal District Munsif, Ulundurpet.
4. The Sub-Treasury Officer, Ulundurpet.

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