



W.P.No.11795 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.P.No.11795 of 2024
and
W.M.P.No.12879 of 2024

C.Bakiyaraj

... Petitioner

Vs.

1. The Secretary to Government,
Home (Pay Cell) Department,
Fort St.George, Chennai - 600 009.
2. The Registrar General,
High Court of Madras,
Chennai - 600 104.
3. The Principal District Judge,
Principal District Court,
Villupuram.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to quash the proceedings bearing D.No.990/2023 dated 02.02.2023 passed by the 3rd respondents thereof and consequently direct the respondents to grant 5% Personal Pay to the Senior Bailiff as per G.O.(Ms) No.664 dated 24.08.1992 with effect from 01.08.1992.



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For Petitioner : Mr.Leelesh Sundaram
for M/s. Nathan and Associates

For R1 : Mr.T.Chandrasekaran
Special Government Pleader

For R2 & R3 : Mrs.Poongkhulali

ORDER

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

The order of revision of pay and consequential recovery issued by the learned Principal District Judge, Villupuram in proceedings dated 02.02.2023 is under challenge in the present writ proceedings.

2. The writ petitioner was appointed as Senior Bailiff on 07.02.2000 in the Tamil Nadu Judicial Services. His pay was fixed by the Establishment as per the Pay Rules and Government Orders, which were in force. The petitioner was awarded Selection Grade in the post of Senior Bailiff in proceedings dated 30.05.2011. Consequently, his pay was revised. The Internal Audit Wing of the High Court of Madras during the audit identified erroneous grant of 5% Personal Pay to the petitioner, pursuant to the 5th Pay Commission recommendations. The 5% Personal Pay was



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granted with effect from 15.09.1998 only to the employees falling under four categories stipulated in the Government Order to rectify the pay anomaly.

However, the benefit of 5% Personal Pay extended to ineligible employees without ascertaining the fact that whether they have faced pay anomaly or not. Thus, the Audit Wing raised an objection that the 5% Personal pay granted to the petitioner was not in accordance with the Government Orders issued while implementing the 5th Pay Commission.

3. The High Court issued proceedings to rectify the error occurred in the fixation of pay. Consequently, the learned Principal District Judge, Villupuram issued the impugned proceedings revising the scale of pay of the petitioner and imposed consequential recovery.

4. The competent Authorities are empowered to correct the mistakes, if any occurred in the fixation of pay or re-fixation. Correction of mistakes are permissible at any point of time. No employee can receive excess pay, resulting an unjust gain. The Establishment Officials dealing with the public money are expected to be cautious and fixations are to be made strictly in accordance with the Pay Rules and Government Orders in



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force, which all are applicable to the employee concerned. Therefore, we are inclined to confirm the revision of pay fixed by the learned Principal District Judge, Villupuram in the impugned order. However, recovery of the excess salary ordered after a lapse of about 23 years would result in great hardship to the employee concerned. Such a lump sum amount if recovered from the employee working in the cadre of Senior Bailiff, it will affect his livelihood.

5. Therefore, we are inclined to set aside the recovery alone. Consequently, the impugned order stands confirmed regarding re-fixation of pay. However, the recovery of excess pay alone is set aside. Accordingly, the Writ Petition stands **allowed-in-part**. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S., J.] [C.K., J.]
12.06.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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S.M.SUBRAMANIAM, J.
AND
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Order in
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