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W.P.No.12507 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.12507 of 2024

P.Rajendran

.. Petitioner

Versus

1. State of Tamil Nadu rep. by its Secretary,
Finance (Pension) Department,
Fort. St. George,
Chennai - 600 009.
 2. The Assistant Executive Engineer,
Public Works Department,
Vellaru Basin Sub Division,
Cuddalore.
 3. The Accountant General,
Accountant General (Accounts & Entitlements),
No.361, Anna Salai,
Teynampet, Chennai - 600 018.
- .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Declaration declaring that the petitioner is entitled for pension based on the last scale of pay after retirement and consequently, direct the respondents to settle all the terminal benefits refund the recovered amount Rs.1,74,972/- with 18% interest.

For Petitioner : Mr.A.R.Nixon



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For Respondents : Mr.C.Jayaprakash,
Government Advocate
for RR-1 and 2

: Mr.P.Manorajan, for R3

ORDER

This Writ Petition is filed seeking for a declaration declaring that the petitioner is entitled for pension based on the last date of pay after his retirement and consequently, for a direction to the respondents to settle all the terminal benefits and refund the recovered amount of Rs.1,74,972/- with 18% interest.

2. The grievance of the petitioner is that when the petitioner's last drawn pay was fixed at Rs.64,100/- on the objections received from the third respondent namely, the Accountant General, the last drawn pay has been revised as Rs.62,200/- and accordingly, the pension of the petitioner is downwardly revised and the respondents have also taken steps to recover the excess payment of Rs.1,74,972/-.

3. It can be seen that the respondents have not issued any show-cause notice and given any opportunity to the petitioner and passed an order



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before resorting to the said exercise. The respondents may have valid reason to correct a mistake and if there is a mistake in fixing the last drawn pay, the same has to be corrected. However, when the impugned exercise visits the petitioner with civil consequences, the same cannot be done without giving any opportunity to the petitioner and without hearing the petitioner and coming to a conclusion after objectively considering the objections that may be raised by the petitioner.

4. In that view of the matter, this Writ Petition is disposed of on the following directions:-

(i) The petitioner's last drawn pay and the pension cannot be altered or downwardly revised until a show-cause notice is issued to the petitioner;

(ii) The respondents shall issue a show-cause notice, if they choose to do so, within four weeks from the date of receipt of a copy of this order;

(iii) The petitioner shall furnish his explanation within three weeks therefrom;

(iv) Upon receipt of the explanation, the respondents shall consider all the grounds raised by the petitioner in accordance with law and pass orders thereon on merits;



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(v) There shall be no order as to costs.

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Neutral Citation : no
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To

1. The Secretary,
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Chennai - 600 009.
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D.BHARATHA CHAKRAVARTHY, J.

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