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W.P.No.14536 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2024

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

W.P.No.14536 of 2024

S.Sheik Ali

... Petitioner

Vs.

1. The Registrar General,
High Court, Madras - 600 104.
2. The Principal District Judge,
Namakkal District,
Namakkal - 637 003.
3. The Chief Judicial Magistrate,
Villupuram District,
Villupuram.
4. The District Treasury Officer,
Collectorate Campus,
Tiruchengode Road,
Namakkal - 637 003.

... Respondents.

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the 2nd respondent in ROC.No.11209/HC/2023 dated 02.09.2023 and the consequential No Due Certificate/Due Certificate



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Letter in ROC.No.18689/A/2023 dated 29.01.2024 and to quash the same, insofar as the recovery of Rs.9,44,876/- is concerned and to direct the respondents 2 and 4 to refund Rs.9,44,876/- to the petitioner, within the time limit, as may be fixed by this Hon'ble Court.

For Petitioner : Mr.N.Anbzhagan
For R1 to R3 : Mr.Arjun Suresh
For R4 : Mr.S.John J.Raja Singh
Additional Government Pleader

ORDER

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

The recovery proceedings of the learned Principal District Judge, Namakkal dated 02.09.2023 is sought to be quashed in the present writ proceedings.

2. The petitioner was holding the post of Sherishtadar at Principal District Court, Namakkal and permitted to retire from service on attaining the age of superannuation on 31.05.2023. Pension proposals were submitted. While calculating the retirement benefits and pension, an objection was raised stating that fixation of pay of the petitioner done with effect from 01.01.1991



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was not in accordance with the Pay Rules and Government Orders in force.

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3. In view of the objections raised by the Accountant General of Tamil Nadu on 20.07.2023, the pay and allowances of the petitioner was revised with effect from 01.01.1991 in proceedings dated 02.09.2023, which is impugned.

4. Consequential recovery order has been ordered to recover the excess pay and allowances disbursed to the petitioner from 01.01.1991 to 01.01.2023. Thus, the petitioner is aggrieved.

5. Mr.V.Anbazhagan, learned Counsel appearing on behalf of the petitioner would submit that a sum of Rs.9,44,876/- (Rupees Nine Lakh Forty Four Thousand Eight Hundred and Seventy Six) was recovered from the terminal benefits of the petitioner, pursuant to the impugned proceedings dated 02.09.2023. Such huge recovery of the said amount would affect the livelihood of the petitioner, who is a pensioner.

6. Learned Counsels appearing on behalf of the respondents would oppose by stating that the fixation was done erroneously. Correction of error



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in the fixation is permissible and within the domain of the Establishment.

Thus, there is no infirmity. Consequently, the writ petition is to be rejected. 7.

No doubt, the Authorities competent are empowered to correct the mistakes in the fixation of pay. However, ordering for recovery after several years from the retired employee would result in great hardship. If such a huge amount of Rs.9,44,876/- (Rupees Nine Lakh Forty Four Thousand Eight Hundred and Seventy Six) is recovered from the pensioner, after a lapse of more than 30 years, the same would affect his livelihood and from and out of these retirement benefits, the petitioner has to settle his retirement life. There is a mistake on the part of the Establishment in verifying the correctness of the fixation made in the year 1991. Objection was raised, admittedly, after a lapse of more than 30 years. That being so, we are inclined to interfere with the recovery of excess salary paid to the petitioner with effect from 01.01.1991 to 01.01.2023. However, the Authorities competent are empowered to correct the mistakes in the fixation of pay in accordance with Pay Rules and Government Orders and calculate the pension and pay as per the Rules in force.

8. In view of the facts and circumstances, the impugned order passed by the 2nd respondent in R.O.C.No.11209/HC/2023 dated 02.09.2023



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is set aside with reference to recovery alone. The revised fixation made in accordance with pay Rules and Government Orders in force stands confirmed. The respondents are directed to repay the recovered amount of Rs.9,44,876/- (Rupees Nine Lakh Forty Four Thousand Eight Hundred and Seventy Six) to the petitioner within a period of six weeks from the date of receipt of a copy of this order.

9. Accordingly, the Writ Petition stands **allowed in part**. No costs.

J.]

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

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

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Order in
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