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W.P.No.15468 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.15468 of 2024
and W.M.P.No.16809 of 2024

A.N.Rajsaravanakhumar

.. Petitioner

Versus

1. The Principal Secretary to Government,
Social Welfare and Women Empowerment
Department, Secretariat,
St. George Fort,
Chennai - 600 009.
2. The Secretary,
Tamilnadu Commission for
Protection of Child Rights,
183/1, EVR Periyar Salai,
Poonamallee High Road,
Kilpauk,
Chennai - 600 010.
3. The Principal Accountant & General (A&E),
Office of the Accountant General (A&E),
361 Anna Salai,
Teynampet, Chennai - 600 018.
4. The Commissioner,
Treasuries and Accounts Department.
5. The Pay and Accounts Officer (North),
Singaravellar Building,



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Rajaji Salai,
Chennai - 600 001.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus to call for the records related to the impugned order passed by the 2nd respondent herein in his proceeding in Proc.R.No.I/2758/2023, dated 07.05.2023 and consequently, direct the respondents to release the amount Rs.3,88,479/- (Three Lakhs Eight-Eight Thousand, Four Hundred and Seventy-Nine Only) to quash the same.

For Petitioner : Mr.J.Prakasam

For Respondents : Mr.P.Ganesan,
Government Advocate,
for RR-1, 2, 4 and 5

: Mrs.R.Sreevidhya, for R3

ORDER

This Writ Petition is filed challenging the impugned order, dated 07.05.2023, in and by which, the respondents have found that the fixation of the basic pay with effect from 01.01.2015 was erroneous and they have re-fixed the pay and also ordered a sum of Rs.3,95,052/- to be recovered from the petitioner.



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2. When the matter is taken up for admission, the learned Counsel for the petitioner submits that even though the respondents can rectify the mistake, they cannot recover the excess amount paid. The fixation was not done based on any misrepresentation of the petitioner. The recovery is now being made from 01.01.2015 onwards. The same cannot be permitted.

3. *Mr.P.Ganesan*, learned Government Advocate takes notice for the respondent Nos.1, 2, 4 and 5 and *Mrs.R.Sreevidhya*, learned Counsel takes notice for the third respondent. In view of the nature of the impugned order passed, this order is being passed at the stage of admission itself.

4. It can be seen from the impugned order itself that the error complained is the fixation error. As such, the same is not made on any misrepresentation of the petitioner. The period of error starts from 01.01.2015, more specifically, the pay fixation as on 01.01.2016. Therefore, it dates back to a period of more than 9 years. The petitioner has already retired from the service. Therefore, this case squarely falls under the judgment of the Hon'ble Supreme Court of India in ***State of Punjab and Ors. Vs. Rafiq Masih (White Washer) and Ors.***¹. Therefore, even though

¹ (2015) 4 SCC 334



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the respondents may be right in correcting the mistake, the excess amount paid to the petitioner cannot be recovered.

5. In view thereof, this Writ Petition is disposed of on the following terms :-

(i) The impugned order, bearing Proc.R.No.1/2758/2023, dated 07.05.2023 shall stand valid inasmuch as it re-fixes the pay of the petitioner, but, however, shall stand quashed inasmuch as it orders recovery of the excess amount of Rs.3,95,052/- from the petitioner;

(ii) There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

12.06.2024

Neutral Citation : no
grs

To

1. The Principal Secretary to Government,
Social Welfare and Women Empowerment
Department, Secretariat,
St. George Fort,
Chennai - 600 009.

2. The Secretary,
Tamilnadu Commission for
Protection of Child Rights,
183/1, EVR Periyar Salai,



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3. The Principal Accountant & General (A&E),
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