



W.P.No.18956 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2024

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

W.P.No.18956 of 2024

P.Bathirasamy

... Petitioner

Vs.

1. The Registrar General
High Court, Madras-104.
2. The Principal District Judge
Coimbatore
3. The Additional District Judge and Presiding Officer,
Special Court for EC Act Cases,
Coimbatore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records of recovery order dated 19.08.2021 in Proceeding No.22/2021 passed by 3rd respondent for recovery of excess pay and allowance of Rs.1,21,552/- from the petitioner and quash the same and consequently direct the Respondents to remit back the recovered amount Rs.1,21,552/- to the petitioner.

For Petitioner : Mr.S.Tamilselvan

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For Respondent : Mr. Arjun Suresh

ORDER

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

The re-fixation of pay and the consequential recovery order passed by the respondents are sought to be quashed in the present writ petition.

2. The petitioner is working as Driver under the learned Additional District Judge/Presiding Officer, Special Court for EC Act Cases, Coimbatore. The petitioner has been awarded Special Grade in the post of Driver with effect from 22.03.2020. He was continuously receiving increment based on the revised pay granted in the post of Special Grade Driver. Based on the Audit Report submitted by the Internal Audit Wing of the Madras High Court, the Authorities passed an order revising the scale of pay and consequential recovery.

3. Mr.S.Tamilselvan, the learned Counsel appearing on behalf of the petitioner would submit that there is no misrepresentation on the part of the petitioner. Special Grade was awarded by verifying the eligibility of the



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petitioner by the Court establishment. Therefore, the revision of pay and the consequential recovery is infirm and to be set aside.

4. Mr.Arjun Suresh, the learned Counsel appearing on behalf of the respondents opposed by stating that though there is no misrepresentation on the part of the petitioner, his pay was erroneously fixed by the Establishment during the relevant point of time. The error in re-fixation was identified by the Internal Audit Wing of the High Court. Therefore, the Authorities are bound to correct the mistakes in fixation of pay and consequently, recovery has been ordered.

5. We are of the opinion that errors in fixation can be corrected by the competent Authorities at any point of time. Even if there is a delay in identifying the error in fixation or refixation of pay to the employees, such mistakes can be corrected by the Authorities. No employee is entitled to receive excess salary, which would result in unjust gains. Thus, refixation done in accordance with Pay Rules and Government Orders need not be interfered with by this Court. However, the recovery of excess salary is concerned, it is impermissible after lapse of long years. Such recovery of excess salary already paid, would result hardship to the employees and they may not be in a position to repay the salary received by them for several



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years. The pay was revised in the year 2003 and the recovery is imposed in the year 2020. Therefore, the recovery of excess pay ordered from 01.04.2003 would result in hardship. More-so, the petitioner is working in the post of Driver and we are inclined to interfere with the order of recovery.

6. Accordingly, refixation of pay effected in accordance with the Pay Rules and Government Orders stands confirmed. The recovery of excess salary from the petitioner alone is set aside and the Writ Petition stands **allowed-in-part**. The amount if any recovered pursuant to the impugned recovery order is directed to be repaid to the petitioner within a period of three (3) months from the date of receipt of a copy of this order.

[S.M.S., J.] [C.K., J.]
02.08.2024

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

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