



W.A.(MD)No.129 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.06.2024**

CORAM:

**JUSTICE N. SESHASAYEE**

AND

**JUSTICE L. VICTORIA GOWRI**

W.A.(MD)No.129 of 2019

and

C.M.P.(MD)No.886 of 2019 & 38 of 2023

S.Shanmugam

...Appellant

/Vs./

The District Collector,  
Trichy District,  
Trichy.

...Respondent

PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to allow the writ appeal and to set aside the order passed by this Court in W.P.(MD)No.182 of 2015 dated 09.11.2018



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For Appellant : Mr.M.Suresh KUMar  
For Respondents : Mr.P.Muthu Vijayan  
Special Government Pleader

### **JUDGMENT**

(Judgment of the Court was delivered by N. SESHASAYEE, J.)

This writ appeal is directed against the order of the learned Single Judge in WP(MD)No.182 of 2015 dated 09.11.2018.

2. The minimum facts that are now required for the disposal of the appeal may be stated as below:-

- The appellant herein was working as Block Development Officer in Manikandam Panchayat Union. While so, he came to be suspended following registration for case under the Prevention of Corruption Act, 1988, for receiving bribes. He was promptly suspended. He was committed by the trial Court, but was acquitted by this Court subsequently.



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- In the meantime, on 31.07.2000, he attained the age of superannuation and retired. The judgment acquitting him however came after the date of his superannuation and following which he was allowed to retire on 15.07.2004. His period of suspension from 10.07.1991 to 31.07.2000 was also treated as period of service in terms of Rule 54(b) of the Fundamental Rules of the Tamil Nadu Government and he was also paid all terminal benefits. Subsequently, the respondent, vide his proceedings dated 22.01.2014 raised a claim of Rs. 2,01,999/- has been excessively paid. This is now resisted by the petitioner.

3. The tenure of the arguments before the learned Single Judge has been that there are several authorities of the Supreme Court, by which any excess payment made inadvertently cannot be recovered, unless the same was made by misrepresentation of the beneficiary. The Civil Judge however rejected the same and directed the payment of Rs.2,01,999/-.



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4. Heard both sides.

5. What emerges significantly in this case is that once the appellant was acquitted of the charges in the criminal case by this Court, the Government not only drove the suspension, but also granted notional promotion at every cadre right from the date of his suspension and indeed it is seen that even rules were relaxed while granting him promotion from the Block Development Officer to the Assistant Director of Rural Development. Therefore, the petitioner cannot have any grievance that what is due to him was not awarded to him.

6. In the impugned notice, it has been categorically indicated that for the entire period from 29.07.1992 till 31.07.2000 with the block of four periods, the petitioner was paid a higher salary than what was due to him. In writ petition, there is no whisper that he was not paid what was actually due to him. In other words, the petitioner did not dispute the calculation provided in the impugned notice, but only harps on his belief that whatever that has been paid to him is not liable to be recovered.



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7. This Court is not quite impressed with the line of the contention of the learned counsel. The Government deals with public money and it is a trustee of public funds. Therefore, this Court may not direct misapplication of public funds. It is not about the amount actually involved, but it is about the entitlements of the petitioner to retain funds, which was wrongly paid to him.

8. So far as the recovery of excessively paid amount is concerned, this Court required the learned Special Government Pleader to provide the Court with the information about the excess pension amount received by the appellant. The learned Special Government Pleader, Mr.Muthu Vijayan, on instructions submitted that, the Appellant / Petitioner is drawing a monthly pension under PPO No.C214466/RD from District Treasury, Tiruchirappalli and the monthly net pension amount which is being drawn by him is Rs.45,148/-.



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**9.** In view of the same, we are of the considered view that the respondent shall recover an amount of Rs.10,000/- per month from the Appellant's monthly pension, till the full recovery of the excess payment of Rs. 2,01,999/- paid to the Appellant by the respondent.

**10.** Accordingly, we do not find any need to interfere with the Order of the learned Single Judge. Accordingly this writ appeal is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

**(N.S.S.J.) & (L.V.G.J.)**  
**10.06.2024**

NCC :Yes/No  
Index :Yes/No  
Internet :Yes  
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The District Collector,  
Trichy District,  
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**N. SESHASAYEE, J.**  
**and**  
**L. VICTORIA GOWRI, J.**

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Judgment made in  
**W.A.(MD)No.129 of 2019**

Dated:  
**10.06.2024**