



W.P.(MD).No.11997 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.11997 of 2024

and

W.M.P.(MD).No.10683 of 2024

K.Lingam

... Petitioner

Vs.

1.The Principal Secretary to Government,
Public Works Department,
Secretariat,
Chennai – 600 009.

2.The Treasury Officer,
District Treasury,
Tenkasi,
Tenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the second respondent ie., the Treasury Officer, District Treasury, Tenkasi in his Letter No.Na.Ka. /2024/D4 dated 14.05.2024 and quash the same and consequently direct the second respondent ie., the Treasury Officer, District Treasury, Tenkasi not to effect any recovery.



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For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.M.Lingadurai
Special Government Pleader

ORDER

Heard Mr.S.Visvalingam, learned counsel for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader for the respondents.

2. By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

3. The petitioner who aggrieved due to the order of recovery dated 14.05.2024 has filed this Writ Petition seeking to quash the order dated . In the impugned order, the petitioner is directed to remit a sum of Rs.2,86,064/- being the excess payment of pension paid from 01.11.2020 to 30.04.2024. The petitioner was not given with any notice before issuing the order of recovery. Neither the authority concerned has followed the Government guidelines issued for recovery by following



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the dictum of the Hon'ble Supreme Court laid down in the case of ***State of Punjab and others vs. Rafiq Masih (White Washer)*** reported in ***AIR 2015 SC 696***. As per the Government Order in G.O.(Ms).No.286 dated 20.08.2018, there cannot be any recovery order against the retired employees for the reason that the mistake for allowing excess payment of pension or any other payment was due to the wrong committed on the part of the Department.

4. Since the petitioner is a retired employee, the recovery order has been passed without following its own guidelines, the impugned order is liable to be set aside. However, if the respondents think it fit that the petitioner's pension has been wrongly fixed, then it is obligatory on the part of the respondents to issue notice to the petitioner for the reason why it is proposed to reduce the pension of the petitioner and give an opportunity to the petitioner to make his submission and then pass orders.

5. In view of the above stated reasons, this Writ Petition is **allowed** and the impugned order of recovery in Letter No.Na.Ka. /2024/D4 dated 14.05.2024 dated 14.05.2024 is set aside.



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The respondents are directed to issue notice to the petitioner and on receipt of the notice, the petitioner is directed to make his submission and thereafter, the respondents shall consider and pass orders in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

- 1.The Principal Secretary to Government,
Public Works Department,
Secretariat,
Chennai – 600 009.
- 2.The Treasury Officer,
District Treasury,
Tenkasi,
Tenkasi District.



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R.N.MANJULA, J.

Nsr

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