



W.P.(MD).No.12911 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.12911 of 2024

and

W.M.P.(MD).No.11478 of 2024

S.Soundarapandian

...Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Higher Education (K1) Department,
Secretariat,
Chennai – 9.

2.The Registrar,
Madurai Kamaraj University,
Madurai – 625 021.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent vide his proceedings in Ref. Estt - II / T2 / 2024 dated 15.05.2024 and quash the same as illegal and consequentially to direct the respondents to settle the entire retirement benefits to the petitioner along with accrued interest thereon.



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For Petitioner : Mr.S.Mohamed Suhail
For M/s.Ajmal Associates

For R-1 : Mr.T.Amjad Khan
Government Advocate

For R-2 : Mr.T.Cibichakraborty

ORDER

Heard Mr.S.Mohamed Suhail, learned Counsel for M/s.Ajmal Associates appearing for the petitioner and Mr.T.Amjad Khan, learned Government Advocate for the first respondent and Mr.T.Cibichakraborty, learned Counsel for the second respondent.

2. The petitioner is the husband of the deceased, namely, Dr.S.Manonmani, who was working as Assistant Librarian at the time of her death, has filed this Writ Petition seeking to quash the order of recovery passed by the second respondent dated 15.05.2024 and consequentially, to direct the respondents to settle the entire retirement benefits to the petitioner along with accrued interest thereon.



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3. Mr.S.Mohamed Suhail, learned counsel for the petitioner submitted that the order of recovery has been passed subsequent to the death of the employee without assigning any reasons, but by citing local audit objection and the copy of the same was also not served on the petitioner.

4. Mr.T.Cibichakraborty, learned counsel for the respondent University submitted that earlier, the petitioner has filed a Writ Petition in W.P.(MD).No.22877 of 2023 seeking for releasing the terminal benefits and this Court, vide order dated 05.04.2024 disposed of the Writ Petition by directing the respondents to consider the representation of the petitioner and pass orders. In consequence thereof, the respondents disbursed the amount to the tune of Rs.5,54,248/- to the petitioner. Now, the impugned recovery has been made only pursuant to the letter of the local audit fund.

5. Time and again, it has been observed in various earlier similar cases that if at all, any recovery is made against an individual during service/post retirement/post death, only after giving them, an opportunity to make their submission before the local fund audit objections. Even if



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no opportunity is given to the individual, it is the responsibility of the Institution to give any clarification as to why such an objection cannot be made for an act done by the respondent already in tune with the University Rules etc. In fact, there are several such cases in which this Court has passed the judgment stating that audit objection for revising salary of an individual subsequent to the death or retirement by re-designating their services and thereby, re-casting their pay and thus, reducing their retirement benefits is found to be illegal.

6. At this juncture, the learned counsel for the respondent University submitted that audit objection has been furnished to the petitioner and on receipt of which, the petitioner had also given a letter stating that reduction can be made from the terminal benefits and the rest of the amount can be sanctioned to him.

7. The petitioner, being the legal heir of the deceased Government employee, would not have known the technicalities of the audit objections raised in connection with his wife's employment under the respondent University. In view of the same, not much significance can be given to the letter given by the petitioner to accept the deduction and



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to pay the balance. However, on advise, now the petitioner has filed this Writ Petition challenging the order of recovery, for which, the petitioner has got the legal entitlement.

8. In such a case, the respondents shall reconsider the representation of the petitioner in the light of the earlier decision rendered in respect of the similar kind of local fund audit objections raised post retirement/death of an employee and pass appropriate orders in the light of the judicial pronouncements already rendered in this regard. In case, the petitioner is still not satisfied but aggrieved due to such orders that might be passed by the respondents, he is at liberty to challenge the same in accordance with law.

9. With the above observations, this Writ Petition is **disposed of**.
No costs. Consequently, connected miscellaneous petition is closed.

18.06.2024

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



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R.N.MANJULA, J.

Nsr

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