



W.P.(MD)No.14878 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.14878 of 2021

and

W.M.P.(MD)Nos.11789, 11790 of 2021

(*)P.Mahamuni

... Petitioner

Vs.

1.The Principal District Judge,
District Court Complex,
Madurai.

2.The Accountant General Central Revenue,
No.316, Anna Salai,
Teynampet,
Chennai.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent vide proceedings in A.No.29/CN/2021, dated 05.08.2021 and quash the same as illegal and consequently directing the respondents to disburse the petitioner's terminal benefit of gratuity with interest and for other reliefs.



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For Petitioner : Mr.J.Lawrance

For R1 : Mr.T.S.Mohamed Mohideen

For R2 : Mr.P.Gunasekaran

ORDER

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

The petitioner is as a retired Senior Bailiff challenges the order of refixation and recovery passed by the Principal District Court, Madurai I in proceedings A.No. 29/CN/2021 dated 05.08.221.

2.The order impugned has been issued based on the audit objection and an identification of error in the pay fixation of the writ petitioner.

3.The authorities competent are empowered to refix the pay, if any error has been committed. However, imposing recovery after retirement would result in hardship. More so, the Apex Court has held that recovery cannot be imposed against the retired employees. In the present case, the petitioner is a retired Senior Bailiff and therefore refixation done by correcting the mistake alone is to be upheld and the order of recovery is to be set aside.

4.Accordingly, the respondents are directed to verify the correctness of the



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refixation and disburse the pay and pension as applicable to the petitioner in accordance with the Pay Rules. However, excess salary or pension already paid shall not be recovered from the petitioner.

5.In the result, the order impugned in this writ petition in proceedings A.No.29/CN/2021 dated 05.08.2021 is set aside only with reference to the recovery portion alone and the writ petition stands partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(C.S.III)

(*)Amended vide order dated 14.06.2024 in WMP(MD)No.3118 of 2024 in WP(MD)No.14878 of 2021.

Sd/-

Assistant Registrar (C.S.III)

// True Copy //

/10/2024

Sub Assistant Registrar
(CS-I , II , III, IV)

Sli

To

(*)To be substituted to the order already despatched on 18/01/2024

1.The Principal District Judge,
District Court Complex,
Madurai.

<https://www.mca.gov.in> 2.The Accountant General Central Revenue,



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No.316, Anna Salai,
Teynampet,
Chennai.

+1 CC to M/s.J.LAWRANCE, Advocate (SR-28512[F] dated 19/06/2024)

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-55216[F] dated
07/12/2023)

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DL/(28.12.2023)/ 4P/ 5C

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SL(18.10.2024)/ 4P/ 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.