



W.P.(MD)No.4428 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.4428 of 2017

and

W.M.P.(MD).No.3563 of 2017

K.Muthupiraman

... Petitioner

Vs.

The Sub Treasury Officer,
Aranthangi Post and Taluk,
Pudukottai 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 respondent in Ka.Mu.Aa.156/15/A, dated 17.12.2015 and quash the same as illegal and arbitrary and consequently direct the respondent to reimburse the amount recovered from the petitioner on the basis of the impugned order.

For Petitioner : Mr.P.Ganapathi Subramanian,
for Mr.B.Sekar

For Respondent : Mr.S.Kameswaran,
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned order dated 17.12.2015 passed by the respondent declaring that a sum of Rs.77,345/-



W.P.(MD)No.4428 of 2017

(Rupees Seventy Seven Thousand Three Hundred and Forty Five only) has been deducted in 19 instalments towards excess payment made to the petitioner, who was employed as Village Administrative Officer, had retired from service in the year 2001.

2. The learned counsel appearing for the petitioner would submit that the recovery made from the petitioner under the impugned order is contrary to the decision rendered by the Hon'ble Supreme Court in the case of ***State of Punjab and Others Vs. Rafiq Masih (White Washer) and others*** reported in (2015) 4 SCC 334 and would submit that the petitioner being a Class-IV employee, the recovery made by the respondent under the impugned order from him is contrary to the aforesaid decision of the Hon'ble Supreme Court. He would further submit that the amount recovered from the petitioner has to be reimbursed to him.

3. A counter affidavit has been filed by the respondent denying the allegations of the writ petitioner.

4. According to the respondent, the payment was made to the petitioner due to wrong fixation of pay and when the payments have been made to the



W.P.(MD)No.4428 of 2017

petitioner under a *bona fide* mistake, the petitioner has no right to retain the same.

5. Admittedly, the petitioner is a pensioner and the amount of Rs.77,345/- (Rupees Seventy Seven Thousand Three Hundred and Forty Five only) which was wrongly paid by the respondent to the petitioner has been recovered from the petitioner in 19 instalments. A sum of Rs.4,100/- (Rupees Four Thousand and One Hundred only) was recovered by the respondent from the monthly pension payable to the petitioner for 18 months which works out to Rs.73,800/- (Rupees Seventy Three Thousand and Eight Hundred only) and another sum of Rs.3,545/- (Rupees Three Thousand Five Hundred and Forty Five only) was recovered from the petitioner from his pension amount towards the 19th instalment and in all put together, a sum of Rs.77,345/- (Rupees Seventy Seven Thousand Three Hundred and Forty Five only) was recovered from the petitioner towards the excess payment made by the respondent to the petitioner. The said recovery from the petitioner commenced in the year 2015 and ended in May 2017. Only after the entire recovery was made amounting to Rs.77,345/- (Rupees Seventy Seven Thousand Three Hundred and Forty Five only), the petitioner has filed this Writ Petition in the year 2017 seeking reimbursement of the money recovered from him by the respondent in respect to



W.P.(MD)No.4428 of 2017

the excess payment made by the respondent to the petitioner. As a pensioner, the petitioner would have noticed while receiving the pension amount every month, that some money has been deducted from and out of the pension amount as an instalment towards the excess payment made by the respondent to the petitioner earlier. Despite, the same having noticed for 19 months, the petitioner has chosen to file this Writ Petition only after the entire recovery was made by the respondent totally amounting to Rs.77,345/- (Rupees Seventy Seven Thousand Three Hundred and Forty Five only).

6. According to the respondent, the last recovery of the excess payment from the petitioner was made in the month of May 2017 and this Writ Petition has been filed in the month of June 2017.

7. The learned counsel appearing for the petitioner had relied upon a judgment of the Hon'ble Supreme Court in the case of ***State of Punjab and Others Vs. Rafiq Masih (White Washer) and others*** reported in ***(2015) 4 SCC 334*** and would submit that the petitioner being a Class-IV employee, the recovery in respect of excess payment made by the respondent cannot be made. However, this is not a case where this Writ Petition has been filed to prevent the recovery of excess payment.

8. In the instant case, the recovery has already been made and this Writ Petition has been filed only seeking reimbursement of the recovery made by the



W.P.(MD)No.4428 of 2017

respondent towards the excess payment. The petitioner though being aware of the recovery made by the respondent from the year 2015 onwards, as the recovery made by the respondent in 19 instalments which got over in May 2017, the petitioner has chosen to file this Writ Petition only after the entire recovery is made by the respondent totally amounting to Rs.77,345/- (Rupees Seventy Seven Thousand Three Hundred and Forty Five only). The question of granting any relief to the petitioner by this Court does not arise due to the reason that the petitioner being aware of the recovery as made by the respondent towards the excess payment made to the petitioner did not approach this Court at the earliest point of time *viz.*, immediately after the respondent had deducted certain sums of money by way of instalments from the petitioner towards the excess payment made in the year 2015 itself. Instead the petitioner has chosen to file this Writ Petition only after the entire recovery has been made by the respondent which got over in the month of May 2017 and this Writ Petition came to be filed only in the month of June 2017.

9. The only limited relief that can be granted by this Court considering the old age of the petitioner who is presently aged 81 years is to direct the respondent to consider the petitioner's representation seeking for reimbursement of the reversed amounts in accordance with law within a short time to be fixed by this Court.



W.P.(MD)No.4428 of 2017

WEB COPY 10. For the foregoing reasons, this Writ Petition is **disposed of** by directing the petitioner to submit a fresh representation to the respondent with regard to reimbursement of the sum of Rs.77,345/- (Rupees Seventy Seven Three Hundred and Forty Five only) which has been recovered by the respondent from the petitioner on account of the excess payment made by the respondent to the petitioner from May 2015 to May 2017 by way of 19 instalments within a period of two (2) weeks from the date of receipt of a copy of this order and on receipt of the said representation, the respondent shall pass final orders on merits and in accordance with law within a period of six weeks thereafter. The respondent is directed to pass final orders as directed by this Court uninfluenced by any of the observations made in the impugned order dated 17.12.2015. No costs. Consequently, the connected miscellaneous petition is closed.

12.08.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG

To

The Sub Treasury Officer,
Aranthangi Post and Taluk,
Pudukottai District.

6/7



WEB COPY



W.P.(MD)No.4428 of 2017

ABDUL QUDDHOSE, J.

TSG

W.P.(MD)No.4428 of 2017

12.08.2024