



W.P.(MD).No.22822 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.22822 of 2024

and

W.M.P.(MD).No.19345 of 2024

P.Thangaraju

... Petitioner

-VS-

1.The Accountant General (A&E),
No.361, Anna salai,
Teynampet,
Chennai-600 018.

2.The Joint Director of Agriculture,
Namakkal.

3. The Treasury Officer,
District Treasury,
Tiruchirappalli.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the first respondent i.e., the Accountant General (A&E), Chennai in his AG (A&E)/PEN 3/U3/PT: 25465 dated 26.08.2024 and quash the same.



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For Petitioner : Mr.S.Visvalingam
For Respondent No.1 : Mr.G.Karthik
Standing Counsel
For Respondent Nos.2 & 3 : Mr.A.Baskaran,
Additional Government Pleader

ORDER

The instant writ petition has been filed by a retired Assistant Director of Agriculture, challenging a communication issued by the 1st respondent to the 2nd respondent seeking to recover sum of Rs.1,00,000/- from the pension of the writ petitioner.

2. The petitioner herein was imposed with a punishment of deducting Rs.1,00,000/- from Death cum Retirement Gratuity (DCRG) as per G.O.(3D).No.268, Agriculture Department dated 19.11.2016. The petitioner has accepted the said punishment and out of Rs.10,00,000/-, a sum of Rs.9,00,000/- Death cum Retirement Gratuity (DCRG) was released to the writ petitioner.



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3. In view of the G.O.Ms.No.233, dated 19.10.2017, the pay scale of the petitioner got revised and the petitioner was entitled to get revised Death cum Retirement Gratuity (DCRG) at the rate of Rs.13,36,583/-. The petitioner ought to have been authorised to receive only a sum of Rs.12,36,583/-. However, by mistake a sum of Rs.13,36,583/- was authorised. This defect was found out in the year 2024, and the impugned communication came to be issued by the first respondent to the 2nd respondent marking a copy to the writ petitioner. This communication is under challenge in the present writ petition.

4. According to the learned Counsel appearing for the writ petitioner, petitioner has attained superannuation on 31.03.2017, and therefore the order of recovery from his pension at this length of time is not been legally sustainable.

5. The learned Counsel appearing for the writ petitioner had relied upon the judgement of the Hon'ble Supreme Court of India reported in 2015 (4) SCC 334 with specific reference to Para.18(ii) and contended that recovery should not be made from the retired employees, especially when there is no misrepresentation on their part.



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6. Per contra, the learned Counsel appearing for the respondent herein had contended that erroneously an excess amount has been paid to the writ petitioner at the time of releasing the revised Death cum Retirement Gratuity (DCRG) and therefore the said excess amount is sought to be recovered. Considering the fact that, the petitioner does not belonged to Group 'C' and 'D' category of employees. The order impugned in this writ petition may be sustained.

7. I have carefully considered the submissions made on either side and perused the materials available on record.

8. It is admitted by either side that excess payment has been made to the writ petitioner, at the time of disbursing the revised Death cum Retirement Gratuity (DCRG) amount. The revised DCRG amount is released to the writ petitioner in the year 2019. The said mistake was found out in the year 2024, and the impugned communication has been issued on 26.08.2024. In the judgement of Hon'ble Supreme Court of India reported in 2015(3) SCC 334 it is held that a recovery of any excess payment from retired employees should not be made, in case there is no misrepresentation on their part.



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9. In view of the above settled position of law, the order impugned in this writ petition is set aside and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR,J.

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