
(2017) 01 MAD CK 0046

In the Madras High Court

Case No : 1647 of 2017 & WMP Nos 1622 & 1623 of 2017

M.Mallaiyan

APPELLANT

Vs

The Assistant Treasury Officer, Sub-Treasury

RESPONDENT

Date of Decision : 24-01-2017

Acts Referred:

Citation : (2017) 01 MAD CK 0046

Hon'ble Judges : M.Sathyanarayanan

Bench : SINGLE BENCH

Advocate : M.Sathyanarayanan

Final Decision : Disposed Off

Judgement

1. By consent, the writ petition is taken up for final disposal. Mr.P.Chinnadurai, learned Government Advocate accepts notice on behalf of the sole respondent.

2. The petitioner was originally appointed as a Secondary Grade Teacher on 21.07.1962 and got promotion to the post of Assistant Headmaster

in the Government Boys Higher Secondary School, Maranda Alli, Dharmapuri District and he retired on attaining the age of superannuation on

30.06.1996. The petitioner would aver that after his retirement from service, the service benefits payable to him have been settled and pension was

also paid to him and it was revised in the year 2010, with effect from 01.01.2006 with monetary benefits payable with effect from 01.01.2007 and

however, to the shock and surprise of the petitioner, the respondent has issued a notice dated 18.11.2016 stating among other things, a sum of

Rs.3,47,551/- has been paid by way of excess amount towards pension and it was followed by the impugned proceedings dated 24.11.2016,

calling upon the petitioner to pay a sum of Rs.3,60,208/- in 33 equal instalments @ Rs.4435/- per month, commencing from November 2016 and

challenging the legality of the same, the petitioner came forward to file the present writ petition.

3. The learned counsel for the petitioner would submit that in pursuant to the impugned order passed by the respondent, recovery is being effected

and would further submit that the said order is in gross violation of the principles of natural justice and therefore, prays for interference.

4. Per contra, Mr.P.Chinnadurai, learned Government Advocate appearing for the respondent would submit that the respondent has issued notice

dated 18.11.2016, informing the decision to recover excess amount and it was followed by the impugned proceedings dated 24.11.2016 and as

such, it is not open to the petitioner to make a complaint as to the non-compliance of the principles of natural justice and prays for dismissal of this

writ petition.

5. This Court paid its best attention to the rival submission and also perused the materials placed before it.

6. Admittedly, before passing the impugned proceedings, the respondent has not put the petitioner on notice and it is a well settled position of law

that the order of recovery of the alleged excessively paid pension amount visits the petitioner with grave civil consequences and in all fairness, the

respondent ought to have put the petitioner on notice before passing the impugned proceedings ; but the said official has failed to do so.

7. In the light of the above facts and circumstances, the impugned proceedings of the respondent dated 24.11.2016 shall be construed as a show

cause notice and the petitioner is at liberty to submit his response / explanation within a period of two weeks from the date of receipt of a copy of

this order and upon receipt of the same, the respondent is directed to consider the said explanation/response on merits and in accordance with law,

after taking note of the judgment rendered by the Hon''ble Supreme Court of India reported in State of Punjab and others V. Rafiq Masih reported

in 2015 [4] SCC 334 and pass orders within a further period of eight weeks thereafter and communicate the decision taken, to the petitioner and

till such time, shall defer all further proceedings pursuant to the notice dated 18.11.2016 and the impugned proceedings dated 24.11.2016

respectively.

8. The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.