IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM:

THE HONOURABLE **MR.JUSTICE RMT.TEEKAA RAMAN**

W.P.No.32367 of 2015
and
M.P.No.1 of 2015

Judgment reserved on 18.02.2025	Judgment pronounced on 10.03.2025

S.Thangaraj ...Petitioner

.....Vs......

1.The Union of India,
Rep.by the Secretary,
Ministry of Defence,
South Block, New Delhi - 110 001.

2. The Chief of Air Staff,
Air Headquarters,
Vayu Bhavan, Integrated Headquarters,
New Delhi - 110 011.

3. The Director of Air Veterans,
Air Headquarters,
Subroto Park, New Delhi - 110 010.

4. The C.D.A (Pensions),
Draupadi Ghat,
Allahabadi, Uttar Pradesh

5. The Assistant General Manager,
State Bank of India,
Centralised Pension Processing Centre (CPPC)
Code No.4470,
No.112/4, Kaliamman Kovil Street,
Virugambakkam, Chennai - 600 092.

6. The Branch Manager,
State Bank of India,
Kovilpatti, Tuticorin - 628 501. .....Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the records relating to the Impugned Order of Recovery issued by the fifth respondent herein in No/MISC dated 27.08.2014 and quash the same and direct the fifth and sixth respondents herein to grant the petitioner the Revised Consolidated Pension and Revised Pension and Dearness Relief at the rates applicable to Group-II posts in accordance with the order of the third respondent dated 18.02.2014 and consequently grant to the petitioner arrears of pension with interests thereon and direct the said respondents to refund the amounts recovered pursuant to the impugned order and grant to the petitioner all other attendant benefits.

For Petitioner	:	Mr.T..Sugesh
For R1 to R4	:	Mr.A.Kumaraguru, Central Government Standing Counsel
For R5&R6	:	Mr.K.Chandrasekaran, For Mr.R.Vigneshwaran

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ORDER

Challenging the impugned order of recovery issued by the fifth respondent, the State Bank of India, Centralised Pension Processing Centre, Virugambakkam, Chennai, and seeking to quash the same. Further, directing the fifth and sixth respondents to grant the petitioner the Revised Consolidated Pension and the Revised Pension and Dearness Relief at the rates applicable to Group-II posts, in accordance with the order of the third respondent dated 18.02.2014. Consequently, directing the said respondents to pay the petitioner arrears of pension with interest thereon, refund the amounts recovered pursuant to the impugned order, and grant all other attendant benefits.

2. The petitioner had filed a O.A before the Tribunal since the impugned order was passed by the State Bank of India, which falls outside the jurisdiction of the Armed Forces Tribunal, Chennai. The O.A. No. 64 of 2005 was directed to be returned to be placed and be filed before the appropriate court by an order dated 21.08.2015, and hence, this writ petition.

3. **<u>The service matrix of the petitioner is as follows</u>:**

(i) The petitioner was promoted to the rank of JWO with effect from 18 October 1980 and retained in the same rank until the date of discharge, i.e., for a period of **one year, six months, and 22 days**. Subsequently, the pension was revised to **Rs. 325/- per month** with effect from 01 May 1982, and the last rank held was notified vide Corrigendum PPO No. AF/S/C/8039/82 for JWO (Group Two).

(ii) In terms of **Regulation 122 of the Pension Regulations for the Air Force, 1961 (Part-1)** and **GOI MOD letter No. 1(4)/82/D (Pension/Sers) dated 22 November 1983**, an individual's pension is assessed based on the lowest acting paid rank or substantive rank and the lowest group held during the last ten months of service qualifying for pension.

(iii) As per **Regulation 123**, a competent authority can condone a deficiency in service in a particular rank not exceeding three months, except in the case of voluntary retirement. The applicant completed the requisite period of seven months in the last rank, making him eligible for condonation in last-rank service. Accordingly, he was sanctioned a service pension of **Rs. 325/- per month** with effect from **01 May 1982** for JWO (Group Two), and the last rank held was also endorsed in **Corrigendum PPO No. AF/S/C/8039/82**.

(iv) The petitioner was sanctioned a service pension of **Rs. 273/- per month** with effect from **01 May 1982** vide **PPO No. AF/S/C/2411/82** for JWO (Group Three).

4. The grievance of the petitioner is that instead of effecting a refund and granting new arrears, the State Bank of India (5th respondent), Centralised Pension Processing Scheme, Chennai, passed an impugned order of recovery on 27.08.2014. In this order, the Bank claimed that an excess amount of Rs. 16,434/- was allegedly paid to the petitioner due to a reduction in basic pay from July 2009 to August 2014. The Bank further directed that the said sum of Rs. 16,434/- be recovered in one lump sum, with an additional amount of Rs. 5,600/- to be deducted every month from September 2014 to November 2014.

5. According to the petitioner, no notice or opportunity was afforded before passing the said order. Additionally, the third respondent is not empowered to effect such a recovery without appropriate orders from R1 and R2.

6. Counter filed by R1 to R4.

7. <u>As per the official respondents, they have stated that</u>:

(i) As per Circular 430, for 21 years of service, the pension is Rs. 8,411/-, and for 21 years and 6 months of service, the pension is Rs. 8,573/-. Therefore, the petitioner is entitled to Rs. 8,411/- per month, as he has served for 21 years and 22 days. Thus, an excess payment of pension was made by mistake.

(ii) After the issuance of an advisory letter dated 18 February 2014, the CPPC, Chennai, passed a recovery order on 27 August 2014 for an amount of Rs. 16,434/-.

(iii) Upon scrutiny of the bank details, it was revealed that the PDA/bank was disbursing a monthly pension higher than the entitlement, i.e., Rs. 8,573/- per month instead of the entitled pension of Rs. 8,411/-. Accordingly, the applicant was served with an advisory letter on 18 February 2014 and 16 September 2014. Since the applicant had served for 21 years, he was granted Rs. 8,411/- per month as per GOI MOD letter No. PC/10 (1)/D-2009 (Pen/Pol) dated 08 March 2010 and O/o the Pr CDA (P) Allahabad Circular No. 430 dated 10 March 2010.

(iv) For the calculation of pensionary benefits, the period of holding the last rank was reduced from 24 months to 10 months, with orders made effective from 01.04.1979, irrespective of the date of retirement. The stipulation of ten months of service in the last rank is still applicable for pre-January 2006 retirees.

(v) Following the implementation of VI CPC recommendations, the formula for calculating pension has changed. As per VI CPC recommendations, the basic pension of post-01.01.2006 retirees should be calculated as 50% of last drawn emoluments (Pay in Bank + Grade Pay + MSP + GP 'X' Pay) + Whole of Classification Allowance (applicable for Sergeants and below only). The stipulation of 10 months of service in the last rank (or 7 months with the provision of condonation) has thus become insignificant for those who retired on or after 01 January 2006. However, this change has not been applied to those who retired before 01.01.2006, meaning the stipulation of ten months of service in the last rank still applies to pre-January 2006 retirees.

8. **<u>As per counter of respondents R5 and R6, they have stated that</u>**:

(i) The details of the payments made to the petitioner are as per the revised pension payment order contained in Letter No. Air HQ/99798/21/02/SP/Pre-06/DAV dated October 2014 issued by the 3rd respondent.

(ii) An excess payment of Rs. 16,434/- was made to the petitioner for the following reasons:

> "Basic pay reduced from July 2009 to August 2014 from Rs. 8,573/- to Rs. 8,411/- on account of a reduction in qualifying service from 21.5 years to 21 years."

It was decided to recover the said sum at the rate of Rs. 5,478/- per month for the period from September 2014 to November 2014.

9. The prayer in the present writ petition is that the petitioner challenges the letter dated 27.08.2014 issued by the 5th respondent Bank and seeks a further direction to the 5th and 6th respondents to grant him revised consolidated pension and revision of pension and dearness relief at the rate applicable to Group II posts, in accordance with the letter of the 3rd respondent dated 18.02.2014.

10. The fifth and sixth respondents—State Bank of India—filed a counter, as extracted supra. Claim No. V clearly indicates that the recovery of Rs. 16,434/- was due to the reduction in qualifying service from 21.5 years to 21 years, as ordered by the official respondents (R1 to R4).

11. The stand of the official respondents has already been extracted and stated supra.

12. The qualifying service was revised, and the recommendations were considered. Necessary copies were served upon the petitioner. In Section II of the order passed by the official respondents, the bank respondents found that an excess payment of Rs. 16,434/- had been made. Hence, the order passed by the bank regarding excess payment, as stated supra, is based on the calculation of the reduction in qualifying service determined by the official respondents. The same is not disputed by the petitioner, and the service records, as extracted supra, substantiate this.

13. The learned counsel for the petitioner stated that no notice was given before effecting the recovery. At this juncture, the learned Standing Counsel for the Bank drew my attention to the Master circular dated 01.07.2017 regarding the disbursement of Government Pension by Banks and also to the undertaking given by the petitioner, submitted as part of the typed set of papers.

14. The undertaking given by the petitioner has been perused.

15. After perusing the RBI circular regarding pension disbursement and the undertaking, I find that the petitioner opted to receive his pension through his SB account with the 6th respondent. At that time, the petitioner provided an undertaking, agreeing to refund or make good to the bank any amount to which he is not entitled. The petitioner also irrevocably authorized the bank to recover any excess amount by debiting his account or any other deposit belonging to him held by the bank. He is eligible to receive only the pension amount specified in the pension payment order.

16. Furthermore, the respondent bank inadvertently made an excess payment of Rs. 16,434/-. The mistake was discovered only when the third respondent issued a revised letter on 18.02.2024 for pension revision. Hence, I find that the impugned order passed by the bank is valid, and it is in accordance with the RBI circular and the pension payment order issued by the third respondent.

17. In this connection, (i) the *Hon'ble Supreme Court, in the case of Syndicate Bank Vs.Vijayakumar* upheld the rights of the banker to exercise lien and setoff and (ii) the *Hon'ble Division Bench of this Hon'ble Court, in Indian Bank v. Hemavathy Rajan (2005 Writ Law Reporter 703), held that the binding regulations dated 18.04.1991*, issued by the Reserve Bank of India, stipulate that once an excess payment is identified, the paying branch has the right to adjust the amount against the pensioner's account balance and recover the shortfall from the pensioner.

18. Accordingly, I find that the writ petition is misconceived. The recovery order passed by respondents R5 & R6 (State Bank of India) is in accordance with the pension payment order issued by R3. In view of the undertaking given by the petitioner, the bank is entitled to recover the excess payment either in one installment or in equal installments, as the case may be. The right of the bank to recover such excess payments has already been settled by the Supreme Court, as upheld in the State Bank and Indian Bank cases. Hence, I find no merits in this petition.

19. Accordingly, this **Writ Petition is dismissed**. No costs. Consequently, the connected Miscellaneous Petition (M.P.) is closed.

10.03.2025

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Index : Yes / No
Neutral Citation : Yes/No
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