



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 29-07-2025

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THE HONOURABLE MR.JUSTICE K. SURENDER

WP Nos.28200 to 28205 of 2016

AND

WMP Nos.24348 to 24353 & 30152 of 2016 & 237 to 240 of 2017

1.C.Ramasamy	...Petitioner in WP No.28200 of 2016
2.R.Kuppusamy	...Petitioner in WP No.28201 of 2016
3.N.Ramamoorthy	...Petitioner in WP No.28202 of 2016
4.R.Padmanaban	...Petitioner in WP No.28203 of 2016
5.A.Thangaraju	...Petitioner in WP No.28204 of 2016
6.A.Syed Azad	...Petitioner in WP No.28205 of 2016

Vs

The Assistant Treasury Officer,
Thirukoilur, Villupuram District

Respondent(s)

PRAYER : Writ Petitions have been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the orders passed by the respondent dated 18.07.2016 in Na.Ka.No.1799/2016/B, and dated 25.07.2016 in Na.Ka.No.1799/2016/A and dated 14.07.2016 in Na.Ka.No.A2/461/2016 and quash the same and thereby, direct the respondent to refund the attached excess payment of pension in P.P.O.Nos.C.32753, C275048/PH, C.272794, A822819/PH, C.272658/PH & A410503 respectively with 18% interest, to the petitioners.

For Petitioners : Mr.A.R.Nixon



For Respondent : Mr.T.Chandrasekaran, SGP

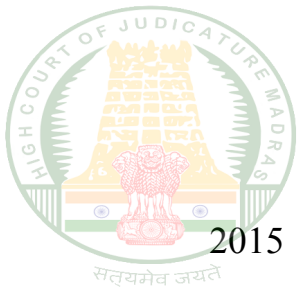
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ORDER

This Writ Petitions have been filed seeking for issuance of a Certiorarified Mandamus, to call for the records relating to the orders passed by the respondent dated 18.07.2016 in Na.Ka.No.1799/2016/B, and dated 25.07.2016 in Na.Ka.No.1799/2016/A and dated 14.07.2016 in Na.Ka.No.A2/461/2016 and quash the same and thereby, direct the respondent to refund the attached excess payment of pension in P.P.O.Nos.C.32753, C275048/PH, C.272794, A822819/PH, C.272658/PH & A410503 respectively with 18% interest, to the petitioners.

2.A batch of Writ Petitions have been filed questioning the impugned orders, directing recovery of excess amount from the petitioners. Such amounts were sought to be recovered from the petitioners' pensionary benefits. All the Writ Petitioners belonged to "D" category employees.

3. The issue in dispute is covered in favour of the Petitioner and against the Respondent by the decision of the Hon'ble Supreme Court in ***State of Punjab and others Vs Rafiq masih (White Washer) and others,***



2015 (4) SCC 334. In **Paragraph No.18** of the aforesaid decision, the

WEB CO Hon'ble Supreme Court held as under:-

“**18.** It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

- i. Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).
- ii. Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.
- iii. Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.
- iv. Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should



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have rightfully been required to work against an inferior post.

- v. In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.”

(emphasis supplied)

4.The learned counsel for the respondent has not disputed that the petitioners are the "D" category employees and the amounts are sought to be recovered from the petitioners' pensionary benefits.

5.It is not in dispute that as on the date of issuance of the impugned orders by the respondents, all the petitioners have retired from service. Firstly, the petitioners are the "D" category employees and secondly, the amounts sought to be recovered are from the pensionary benefits of the petitioners. Either way, the orders passed by the respondent, directing recovery of the amounts from the "D" category employees, after their superannuation, cannot be sustained in the light of the decision of the Hon'ble Supreme Court (cited supra).



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6. Accordingly, the petitioners succeed and the impugned orders passed seeking recovery of amounts from the pensionary benefits of the petitioners are liable to be quashed.

7. Accordingly, the Writ Petitions are allowed and the impugned orders passed by the respondent in Na.Ka.No.1799/2016/B, dated 18.07.2016 and in Na.Ka.No.1799/2016/A, dated 25.07.2016 and in Na.Ka.No.A2/461/2016 dated 14.07.2016 respectively, are hereby quashed. No costs. Consequently, connected miscellaneous petitions are closed.

(K. SURENDER,J)

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Index : Yes/No

Speaking order: Yes/No

To

1. The Assistant Treasury Officer,
Thirukoilur, Villupuram District



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K. SURENDER, J

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Writ Petition Nos.28200 to 28205 of 2016

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