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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2025

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.P.No.17667 of 2024

State Bank of India
Centralized Pension Processing Centre
No.112/4, Kaliamman Koil Street
Virugambakkam, Chennai 600 092
represented by its Assistant General Manager .. Petitioner

v.

1. Ex CPL C.W.Samuel Walter, No.203618

2. Union of India
   Ministry of Defence
   Room No.227, B-Wing
   Sena Bhawan
   New Delhi 110 011 rep.by its Secretary
   Government of India

3. The Chief of Air Staff
   Army Headquarters, Vayu Bhawan
   Rafi Marg
   New Delhi 110 006

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4. The Officer-In-Charge
   Pension & Welfare Wing
   Air Force Record Office
   Subroto Park, New Delhi 110 010

5. The Officer-In-Charge
   AIR HQ, Director of Air Veterans
   Subroto Park, New Delhi 110 010 .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records culminated in passing an impugned order in O.A.No.11 of 2021 dated 01.02.2023 passed by Hon'ble Armed Forces Tribunal, Regional Bench, Chennai and consequently quash the same as ultra vires, rule of law and against the principles of natural justice.

For Petitioner :: Mr.M.L.Ganesh

For Respondents :: Mr.P.Ebenezer Paul for R1
Mr.V.Balasubramaniam
Senior Panel Counsel for R2 to R5

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

The State Bank of India filed the present writ petition challenging the order passed by the Armed Forces Tribunal, Regional Bench, Chennai in O.A.No.11 of 2021 dated 01.02.2023.

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2. The first respondent filed an application before the Armed Forces Tribunal challenging the communication issued by the Directorate of Air Veterans on 20.11.2020. The first respondent was enrolled in the Indian Air Force and discharged from service on 15.05.1963. He is a pensioner receiving service pension. The first respondent received a communication from the Directorate of Air Veterans that there was overpayment of Rs.12,31,657/- wrongly credited in the State Bank of India accounts in the name of the petitioner. The State Bank of India initiated action to recover the excess amount credited in the accounts of the first respondent. The first respondent knew about the erroneous credit of excess pension in his account through the Directorate of Air Veterans and instituted original application before the Armed Forces Tribunal. The Armed Forces Tribunal decided the issues on merits and set aside the communication of the Directorate of Air Veterans, applying the principles laid down by the Hon'ble Supreme Court of India in Rafiq Masih (White Washer) case. Thus the State Bank of India has instituted the present writ petition.

3. Question arises whether the transaction between the State Bank of

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India and the first respondent would fall under the purview of the Armed Forces Tribunal Act, 2007? As far as the State Bank of India is concerned, the first respondent is an account holder and his pension is being paid through the State Bank of India accounts from the Defence accounts. Therefore, the State Bank of India is only a disbursing authority and not connected with the fixing or sanctioning of pension.

4. The learned Senior Panel Counsel appearing on behalf of the respondents 2 to 5 would submit that there is no error committed on the part of the Pension Payment Authority. The pension fixation was made in accordance with the Pension Regulations and the applicable pension amount alone has been directed to be paid by the State Bank of India. Thus the issue is nowhere connected with the affairs of the Pension Sanctioning Authority.

5. The learned counsel for the petitioner/State Bank of India would submit that it is purely an error committed while disbursing the pension amount. Excess amount of Rs.12,52,172/- has been paid wrongly to the first

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respondent pursuant to the Accountant General's Audit. However, it is unconnected with the fixation of pension paid by the Pension Sanctioning Authority.

6. Regarding the error committed by the State Bank of India in disbursing the pension payment, the same would not fall under the definition of 'service matters', as defined under Section 3(o) of the Armed Forces Tribunal Act, 2007, which reads as follows:-

> "3(o)"service matters", in relation to the persons subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950), mean all matters relating to the conditions of their service and shall include—
> (i) remuneration (including allowances), pension and other retirement benefits;
> (ii) tenure, including commission, appointment, enrolment, probation, confirmation, seniority, training, promotion, reversion, premature retirement, superannuation, termination of service and penal deductions;
> (iii) summary disposal and trials where the punishment of dismissal is awarded;
> (iv) any other matter, whatsoever, but shall not include matters relating to—
> (i) orders issued under section 18 of the Army Act, 1950 (46 of 1950),

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sub-section (1) of section 15 of the Navy Act, 1957 (62 of 1957) and section 18 of the Air Force Act, 1950 (45 of 1950); and

(ii) transfers and postings including the change of place or unit on posting whether individually or as a part of unit, formation or ship in relation to the persons subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950);

(iii) leave of any kind;

(iv) summary court martial except where the punishment is of dismissal or imprisonment for more than three months; ”

'Service matter' is defined as in relation to the persons subject to the Army Act, 1950, Indian Navy Act, 1957 and the Air Force Act, 1950 relating to the conditions of their service. It is relevant to consider Section 2 of the Armed Forces Tribunal Act, which speaks about the applicability of the Act, as under:-

“2. Applicability of the Act.—(1) The provisions of this Act shall apply to all persons subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950).

(2) This Act shall also apply to retired personnel subject to the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957) or the Air Force Act, 1950 (45 of 1950), including their dependants, heirs and successors, in so far as it relates to their service matters.”

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7. Thus the transaction between the State Bank of India and the first respondent is unconnected with the service conditions or related issues under the Army Act, Air Force Act or the Navy Act. There is no dispute existing between the Pension Sanctioning Authority and the first respondent in the matter of fixation of pension or otherwise. It is only between the State Bank of India and the first respondent in the matter of disbursement of excess payment. Therefore, the parties have to resolve the issues in the manner known to law. However, this Court holds that the Armed Forces Tribunal has no jurisdiction to entertain an application under Section 14 of the Armed Forces Tribunal Act, 2007. Thus the parties are granted liberty to adjudicate the issues before the appropriate forum. Accordingly, the impugned order passed by the Armed Forces Tribunal in O.A.No.11 of 2021 dated 01.02.2023 is set aside and the writ petition stands allowed. Consequently, W.M.P.No.19446 of 2024 is closed. No costs.

Index : yes
Neutral citation : yes

(S.M.S.,J.) (K.R.S.,J.)
12.02.2025

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To

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   Centralized Pension Processing Centre
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2. The Secretary to Union of India
   Ministry of Defence
   Room No.227, B-Wing
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