



W.P. No.10899 of 2017

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2025

CORAM:

THE HON'BLE MR. JUSTICE K. SURENDER

W.P. No.10899 of 2017

and

W.M.P. No.11848 of 2017

R. Joseph

... Petitioner

-Vs-

1. Tamil Nadu Generation and
Distribution Corporation Ltd.,
Rep by its Chairman cum Managing Director,
No. 144 Anna Salai,
Chennai 2.

2. The Superintendent Engineer
Kadamparai Generation Circle,
Tamil Nadu Electricity Board,
Minparai 642 101.

3. Chief Internal Audit Officer
Board Auditing Branch,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No. 144 Anna Salai,
Chennai 2.

4. Internal Audit Officer
Board Auditing Branch,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No. 144 Anna Salai,
Chennai 2.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, for Writ of Certiorari calling for the records pertaining to the Order No. LR. No./2017/BOAB/F/7/F72/B239/ PPO 90361/2017 dated 3/2017 issued by the 4th respondent read with the order dated KA. No.084/SAPATHI-2/U1/Ko. Auditing/2017 dt 14.3.2017 issued by the 2nd and 3rd respondents and quash the same as illegal

For Petitioner : Ms. S. Meenakshi
For Respondents : Mr.K. Rajkumar,
Standing Counsel

ORDER

This writ petition has been filed to quash the order No. LR. No./2017/BOAB/F/7/F72/B239/ PPO 90361/2017 dated 3/2017 issued by the 4th respondent read with the order dated KA. No.084/SAPATHI-2/U1/Ko. Auditing/2017 dt 14.3.2017 issued by the 2nd and 3rd respondents.

2. It is averred that the petitioner joined as Helper in the office of the 2nd respondent on 07.09.1994. In the year 2008, he was promoted as Foreman Grade I and thereafter in the year 2014, he was permitted to retire from service viz., on 30.09.2014 as Foreman Grade I. While so, after retirement, the 2nd respondent, vide proceedings dated 14.03.2017 instructed the 3rd respondent to recover a sum of Rs.64,426/- from the



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petitioner's pension. Shockingly, it was stated in the order of the 2nd respondent that the aforesaid sum was termed as excess payment with regard to increments paid during the years 2007 and 2011 (December quarter). Subsequent to which, a reply dated 08.04.2017 was sent by him stating that the increments were rightly given and no excess payment was made to him. On receipt of the said reply, the 4th respondent vide order dated March 2017 informed the petitioner that the aforesaid excess amount of Rs.64,426/- will be recoverable from his pension in 22 instalments commencing from April 2017 onwards. Aggrieved over the said orders viz., order dated March 2017 issued by the 4th respondent as well as order dated 14.03.2017 issued by the 2nd respondent, this writ petition has been filed.

3. Heard the learned counsel on either side and perused the materials placed on record.

4. The issue in dispute is covered in favour of the petitioner and against the respondents 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 Hon'ble Supreme Court held as under:-



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“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 have rightfully been required to



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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)*

5. It is not disputed by the learned Standing Counsel appearing for the respondents that the petitioner, who retired from service as Foreman Grade I, was issued orders of recovery by the respondents and wherein, it was stated that the said recovery has to be deducted from petitioner's pension.

6. On a bare perusal of records, it is clear that on the date of issuance of the impugned orders by the respondents, the petitioner was retired from service. Further it reveals that the amount sought to be recovered is from the pension payable to the petitioner. Either way, the orders passed by the respondents, directing recovery of the amount from the employee, that too after retirement is unsustainable in the light of the decision of the Hon'ble Supreme Court (cited supra).



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WEB COPY 7. Accordingly, the impugned orders passed by the respondents viz., order dated March 2017 issued by the 4th respondent as well as order dated 14.03.2017 issued by the 2nd respondent, seeking recovery of amount from the pension payable to the petitioner are liable to be quashed.

8. In view of the above, this writ petition stands allowed and the impugned orders passed by the respondents vide order dated March 2017 issued by the 4th respondent as well as order dated 14.03.2017 issued by the 2nd respondent are hereby quashed. No costs. Consequently, connected miscellaneous petition is closed.

K. SURENDER, J.
10.09.2025

Internet: Yes/No
Index: Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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To



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