



W.P(md)Nos.10654 to 10658 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated:05.11.2025

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP(MD)Nos.10654 to 10658 of 2019

and

**W.M.P(MD)Nos.8157, 22235, 8158, 22248, 8159, 21974, 21975, 22233,
8161 of 2019, 11220, 11189, 11219, 11191 of 2022**

R.Arul Mohan	... Petitioner in W.P(MD)No.10654/19
R.Gandhi	... Petitioner in W.P(MD)No.10655/19
P.Nickolass	... Petitioner in W.P(MD)No.10656/19
P.Duraisingh	... Petitioner in W.P(MD)No.10656/19
P.Abdul Lathiff	... Petitioner in W.P(MD)No.10658/19

Vs.

1.The State of Tamil Nadu,
Represented by
The Principal Secretary to Finance Department,
The Secretariat, Fort St. George,
Chennai.

2.The Treasury Officer,
The District Treasury,
Nagercoil,
Kanyakumari District.

... Respondents in all W.Ps

Prayer: Writ Petitions filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling upon records of the 2nd respondent relating to RC No.2513/E1/19 dated 21.03.2019 and quash the same and to consequently forbear the respondents 1 and 2 from recovering any amount from the petitioners' pension in future.



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For Petitioners : Mr.P.Samuel Gunasingh
For R1 & R2 : Mr.J.Ashok
Additional Government Pleader

COMMON ORDER

These present Writ Petitions are filed challenging the impugned recovery notice dated 21.02.2019.

2.Heard Mr.P.Samuel Gunasingh, learned counsel appearing for the petitioners and Mr.J.Ashock, learned Additional Government Pleader appearing for the respondents.

3.The learned counsel appearing for the petitioners would submit that before passing the impugned order, no notice was served against them. It is the further submission of the petitioners that according to the judgment of the Hon'ble Supreme Court in *State of Punjab and Others V Rafiq Mashih(White Washer)* reported in (2014) 8 SCC 883, no recovery could be effected against the retired employee. In the case in hand, the petitioners are the pensioners. Therefore, the very impugned recovery is contrary to the judgment of the Hon'ble Supreme Court. Hence, he prays to interfere with the same.



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4.The learned Additional Government Pleader appearing for the respondents would vehemently contend that the application of *Rafiq Masih case(cited supra)* to the present facts of the case will not arise, as in the present case the excess payment was made after their retirement. It is the further submission of the learned Additional Government Pleader that within a the period of two years, the authority has issued recovery notice. Therefore, he prays to dismiss the writ petitions.

5.I have given my anxious consideration of the submission made on either side.

6.Before we delve into the merits of the case, this Court put a question to the learned Additional Government Pleader, to the effect, as to the issuance of notice before passing the impugned order. The learned Additional Government Pleader, after pursuing the impugned order, would fairly submit that there is no reference about the order of issuing prior notice. This Court is of the firm view that any recovery order, without asking for objection from the affected person, cannot allow to be sustained.

7.Therefore, this Court, without going into the merits of the case, only on the ground of not following natural justice, find merit in favour of the



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petitioner. This Court direct the respondent to treat the impugned order as the notice, and the petitioners are directed to submit their explanation within a period of four weeks from the date of receipt of a copy of this order. On receipt of such explanation given by the petitioners, or otherwise, within the above period, the respondents are directed to pass orders according to its own merits and in accordance with law, within a period of 8 week there from. Till then, the interim order already granted by this Court on 27.06.2019 will continue.

8.In view of the above, these Writ Petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

05.11.2025

Index : Yes/No
Neutral Citation : Yes/No
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To

- 1.The State of Tamil Nadu,
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- 2.The Treasury Officer,
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C.KUMARAPPAN, J.

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