



W.P(md)No.9907 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:05.11.2025

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THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

WP(MD)No.9907 of 2019

A.Raju

... Petitioner

Vs.

The Assistant Provident Fund
Commissioner (Pension)
Employees Provident Fund Organisation,
Regional Office,
No.65-A, Water Tank Road,
Nagercoil,
Kanyakumari District.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent herein in his proceedings vide No.TN/NGL/Pension/Commutation/2018 dated 19.04.2018 and quash the same and consequently direct the respondent to disburse the arrears of pension with interest which was illegally recovered from the petitioner after 100 instalments payable by him.

For Petitioners : Mr.B.Brijesh Kishore

For Respondent : Mr.J.Shenbagalingam,
for Mr.N.Dilipkumar
Standing Counsel



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ORDER

The present writ petition has been filed to quash the impugned order dated 19.04.2018 passed by the respondent in his proceedings vide No.TN/NGL/Pension/Commutation/2018 and to disburse the arrears of pension with interest, which was illegally recovered from the petitioner after 100 instalments payable by him.

2.The learned counsel appearing for the petitioner would submit that the petitioner was a Tapper in the respondent Corporation and he was a member of the Employees Provident Fund Scheme. The learned counsel would further submit that the petitioner retired from service during 2006, and that he received commutation of pension. The learned counsel would further submit that in order to adjust lump-sum amount equivalent to the commuted value of pension, the respondent had deducted 1/3rd of his original monthly pension. It is the specific submission of the petitioner that though the monthly deduction as on 11.03.2015, the petitioner completely disclosed the commuted value, whereas the respondent had deducted 1/3rd pension even after the completion of 100 months. Hence, he prays to interfere with the said order.



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3.Though the learned counsel would contend that the respondent did not restore the pension contrarily in their affidavit it has been stated that since 2021 onwards the respondent has restored the pension. Therefore, from looking at the prayer, his claim is now only in respect of the interest for the belated disbursal of the arrears of pension. Apart from the above submission, the learned counsel by referring a letter dated 19.01.2015 would contend that the petitioner is eligible for minimum pension of Rs.1,000/- with effect from 01.09.2014. Hence, he prays to direct the respondent to pay the minimum pension of Rs.1,000/-.

4.Per contra, the learned Standing Counsel appearing for the respondent would draw the attention of this Court that in view of Section 12-B of the Employees' Pension Scheme, 1995, the original pension will be restored after a period of 15 years from the date of commutation. In the case in hand, in accordance with the Section 12-B of the Employees' Pension Scheme, 1995, from the year 2021 the actual pension was restored after a period of 15 years.

5.Apart from that, the learned counsel would also rely upon Section 12(7-A) of the Employees Pension Scheme 1995,(hereinafter referred to EPS) and would contend that if a person has been receiving pension even



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prior to attaining 58 years, the amount of pension shall be reduced at the rate of 4% for every year the age fall below 58 years, and that the Section 12(7-A), though mandates minimum pension is as 1000/- such mandate is not applicable to the petitioner, in view of the Section 12(7-A) of EPS, as the on account of granting pension before attaining superannuation under sec 7 of the EPF Act, 1992. Hence, he would submit that nothing survives for adjudication in the writ petition.

6.I have given my anxious consideration of the submission made on either sides.

7.Here, there are two fold submissions by the learned counsel for the petitioner. Let us take the first submission that after deduction of total commuted value of pension in 100 monthly instalments, the respondent did not restore the original pension. In this regard, it is appropriate to refer Section 12-B of the Employees' Pension Scheme, 1995. For ready reference, it is extracted hereunder:

“12-B. Restoration to Normal Pension in case of grant of commutation.- The normal pension in respect of those members who availed the benefit of commutation of pension under the erstwhile paragraph 12-A of the Scheme, on or before the 25th day of September, 2008, shall be



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restored after completion of fifteen years from the date of such commutation.”

8. According to the above section, restoration would come only after the period of 15 years. In this case, admittedly, the actual pension of the petitioner was restored, after a period of 15 years, from the year 2021. Therefore, this Court absolutely does not find any infirmity in the impugned order. The factum of restoration of pension was admitted by the petitioner. Therefore, the question of directing the respondent to pay interest upon the arrears does not arise.

9. Coming to the next submission of the petitioner, the same is in respect of minimum pension of Rs.1,000/- based upon the letter dated 09.02.2015. This Court would like to refer Section 12(7-A) of the EPS 1995. For ready reference, the same is extracted hereunder:

“.....

12(7-A).The monthly member's pension including any relief payable to any existing or future member under this paragraph shall not be less than one thousand rupees.”

10. According to the above Section, though minimum pension is Rs.1,000/-, the same is not applicable to the persons, those who awarded



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pension even prior to attaining superannuation. In the case in hand, the petitioner was retired even prior to attaining superannuation and was granted pension earlier than 58 years. Therefore, as rightly contended by the learned Standing Counsel, the petitioner is not entitled for minimum pension of Rs.1,000/-.

11.In view of the above, this Court absolutely does not find any merit in the Writ Petition and hence, this petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.11.2025

Index : Yes/No

Neutral Citation : Yes/No

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To

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C.KUMARAPPAN, J.

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