BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 31.07.2025

Pronounced On : 29.08.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. (MD) No.14658 of 2017
and
W.M.P.(MD)Nos.11482 of 2017 & 21993 of 2024

S.Umadevi
W/o.Late Seenivasan
12.A, Jameen Pettai Street,
Kovilpatti town.
Tuticorin District ... Petitioner

Vs.

1.The District Treasury Office,
Office of the District Treasury,
Tuticorin District,
Tuticorin-628 001.

2. The Assistant Treasury Officer,
Taluk Treasury.
Kovilpatti town.
Tuticorin District ... Respondents

PRAYER in W.P.:

To issue a Writ of Certiorari or any other appropriate Writ or order or directions in nature of Writ of Certiorarified Mandamus, calling for the records, on the file of the 2nd Respondent in O.M.No.133/A1/2017 dated 02-05-2017, and quash the same as illegal and arbitrary and consequently direct the respondents to reimburse the amount of

Rs.1,16,000/- recovered from the petitioner on the basis of the impugned Order and pass such further or other order as this Hon'ble may deem fit and proper in the circumstances of the case and thus render justice.

PRAYER in WMP(MD)No.11482 of 2017:

To grant an order of interim direction to the respondents to return the pension amount deducted from the monthly pension of the petitioner from the month of April 2016, till date to the tune of Rs.1,16,000/- pending disposal of the writ petition and thus render justice.

PRAYER in WMP(MD)No.21993 of 2024:

To vacate the stay the interim direction dated 07.08.2017 made in W.M.P.(MD)No.11482 of 2017 in W.P.(MD)No.14658 of 2017 and thus render justice.

APPEARANCE OF PARTIES:

For Petitioner : Mr. V.Sathurthi Raja, Advocate
for Mr.S.Kadarkarai, Advocate

For Respondents : Mr.V.Om Prakash,
Government Advocate for R1

: Mr.P.Gunasekaran, Advocate for R2

JUDGMENT

Heard.

2. The petitioner, in this writ petition, seeks to quash the order of the 2nd respondent, the Assistant Treasury Officer, dated 02.05.2017, and for a consequential direction to refund a sum of Rs.1,16,000/- recovered from him. By the impugned order, it was stated that, pursuant to the annual audit for the year 2015, it was noticed that the petitioner had been receiving enhanced rate of family pension even beyond the permissible period. Consequently, an excess payment of Rs. 1,22,991/- was determined, and recovery thereof was ordered.

3. When the writ petition was taken up on 07.09.2017, an interim order of stay of recovery was granted, taking note of the contention that no prior notice had been issued to the petitioner and that her husband had died on 16.04.2006, leaving the petitioner as his sole legal heir. It was, therefore, prima facie found that the recovery effected from the pension payable was not valid.

4. Thereafter, a petition to vacate the stay was filed. On behalf of the respondents, a typed set of papers was produced to demonstrate the manner in which the excess amount had been paid. The learned counsel for the petitioner, however, placed reliance on the decision of this Court

in Meenakshi Sundaram v. The District Treasury Officer, W.P.(MD) No. 19424 of 2013, dated 25.01.2017, wherein, following the judgments of the Hon'ble Supreme Court reported in (2009) 3 SCC 475 and (2015) 4 SCC 334, it was held that such recovery was not legally sustainable.

5. The learned counsel for the petitioner particularly relied on the directive issued by the Hon'ble Supreme Court in ***State of Punjab & Others v. Rafiq Masih (White Washer),*** reported in ***(2015) 4 SCC 334***, wherein the following guideline was laid down:–

> "12. 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 herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:
> (i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).
> (ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.
> (iii) Recovery from 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 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.
> 13. We are informed by the learned counsel representing the appellant- State of Punjab, that all the cases in this bunch of appeals, would undisputedly fall within the first four categories delineated hereinabove. In the appeals referred to above, therefore, the impugned orders passed by the High Court of Punjab and Haryana (quashing the order of recovery), shall be deemed to have been upheld, for the reasons recorded above."

6. The learned Government Advocate was unable to controvert the submissions made on behalf of the petitioner. Accordingly, the writ petition stands allowed. The connected W.M.Ps. are closed. There shall be no order as to costs.

29.08.2025

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation : Yes / No

LS

DR. A.D. MARIA CLETE, J.

LS

To

1.The District Treasury Office,
Office of the District Treasury,
Tuticorin District,
Tuticorin-628 001.

2. The Assistant Treasury Officer,
Taluk Treasury, Kovilpatti town.
Tuticorin District.

Pre-delivery Judgment made in
W.P. (MD) No.14658 of 2017

29.08.2025