IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 04-02-2026**

CORAM

**THE HON'BLE MR.JUSTICE T. VINOD KUMAR**

**WP No. 10427 of 2021**

**and W.M.P.No.11028 of 2021**

Natesan

..Petitioner(s)

Vs

1.District Treasury Officer,
District Treasury Office,
Thiruvallur.

2.The Assistant Treasury Officer,
Sub-Treasury, Poonamallee 600 056

..Respondent(s)

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 1st respondent made in Na. Ka. En. 489/ A2/ 2020 dated on 20.11.2020 and quash the same and also direct the 1st respondent to not deduct the amount from his pension (PPO No. R0615051 DOR 30.11.2016)

For Petitioner(s): M/S SELVI GEORGE
FOR Majestic Law Firm
For Respondent(s): Mr.T. CHANDRASEKARAN SGP

**ORDER**

Heard the learned counsel for the petitioner and the learned Special

Government Pleader for the respondents and perused the materials available on record.

2. The case of the petitioner in brief is that while working as Grade-I Police Constable he had retired from services on 30.11.2016 on attaining the age of superannuation and his pensionary benefits have been settled in full.

3. It is the further case of the petitioner that the respondents after a lapse of 4 years have issued impugned proceedings calling upon the petitioner to pay a sum of Rs.6,80,340/- claiming the said amount as excess payment of Dearness Allowance during 01.11.2018 to 30.09.2020 which action of the respondents it is contended as highly illegal and arbitrary.

4. The petitioner further contended that the aforesaid alleged excess payment made by the respondents, is not on account of the misrepresentation by the petitioner for them to claim that the petitioner is liable to make good the aforesaid payment, which, the respondents intended to recover from the monthly pension payable to the petitioner.

5. On behalf of the petitioner, it is also contended that since, the petitioner had retired as Grade-I Constable, the alleged excess payment, even if any, also cannot be recovered by the respondents since the petitioner employment falls

under Group – C/ Category - III of employment and applying the law laid down by the Hon’ble Apex Court in the case of ***State of Punjab Vs. Rafiq Masi*** *reported in* ***(2015) 4 SCC 334***.

6. Contending as above, the learned counsel for the petitioner submitted that the impugned order cannot be sustained.

7. Counter affidavit on behalf of the respondents is filed.

8. By the counter affidavit, it is contended that the excess payment of Dearness Allowance was made to the petitioner while implementing the recommendations of the 6th and 7th pay commission and as such, the petitioner is not entitled for the enhanced Dearness Allowance which was wrongly paid to him and thus, the respondents sought to recover the excess payment made to the petitioner.

9. By the counter affidavit, the respondents contended that the petitioner who was a pensioner during the period 01.11.2018 to 30.09.2020 was erroneously paid excess Dearness Allowance and the said excess payment was pointed out in the biannual inspection conducted by the Accountant General, Chennai for the year 2020 - 2021 and accordingly, the impugned proceedings has been issued seeking to recover the excess payment from the pension of the

petitioner in monthly instalments.



10. The respondents would further contended that the petitioner had clear knowledge of the excess payment being made to him to which he is not entitled and the said amount belonging to the State Exchequer and as such, the petitioner cannot claim that the said amount cannot be recovered from him.

11. Contending as above, the learned Additional Government Pleader appearing on behalf of the respondents seeks for dismissal of the writ petition.

12. I have taken note of the respective contentions urged by the learned counsel on either side.

13. Though on behalf of the petitioner heavy reliance is placed on the decision of Apex Court in the case of ***State of Punjab Vs. Rafiq Masi (supra),*** it is to be noted that the alleged excess payment of Dearness Allowance had taken place after the relationship of employer- employee seized to exit as the petitioner having retired from service on 30.11.2016 and being in receipt of pension from the Pay and Accounts office.

14. In so far as, the alleged excess payment of dearness allowance on account of the wrong implementation of 7th pay commission recommendation

during the period 2018 to 2020 is concerned, admittedly, the said excess payment is not on account of any misrepresentation made by the petitioner but only on account of the wrong implementation by the respondents in respect of the benefits payable to the petitioner, thereby meaning the respondents cannot take shelter to claim that the aforesaid omission on their part having been noticed during biannual inspection by the office of the Accountant General, Chennai during the year 2020-2021 and for the said reason, the impugned proceedings have been issued to the petitioner seeking to recover the aforesaid excess payment.

15. Not withstanding the said claim of the respondents that the alleged excess payment having been made and the same having been noticed during the biannual inspection by the office of the Accountant General, it is to be noted that the respondents are also required to take action in accordance with law and in the event of any excess payment being made.

16. For the aforesaid reasons, they cannot seek to use the power of disbursement of monthly pension to recover the alleged excess payment without initiating any actions, firstly, by issuing any notice to the petitioner pointing the alleged excess payment and secondly, by initiating appropriate action for recovery of the said amounts by following due process of law.

17. Further, the fact of the respondents being the monthly pension

disbursing authority by itself cannot confer any right on the respondents to recover the payment, without initiating appropriate action like filing a suit before competent Court of jurisdiction within the limitation prescribed in law. Instead the respondents by the impugned proceedings, taking advantage of their position have resorted to recover the aforesaid amount which in the eye of law cannot be permitted even assuming that the said payment had been accepted by the petitioner having full knowledge that he is not entitled to.

18. In view of the above, this Court is of the view that the impugned proceedings by which, the respondents seek to recover the alleged excess payment of Dearness Allowance from the pension payable to the petitioner by deducting the same cannot be sustained.

19. Accordingly, this writ petition is allowed and the impugned order dated 20.11.2020 is set aside. However, it is made clear that the respondents are at liberty to initiate proceedings to recover the amount by following due process of law by approaching competent court of civil jurisdiction, subject to availability of limitation. No costs. Consequently connected miscellaneous petition is closed.

**04-02-2026**

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MSV

To

1.District Treasury Officer,

District Treasury Office,

Thiruvallur.

2.The Assistant Treasury Officer,

Sub-Treasury, Poonamallee 600 056

**T.VINOD KUMAR, J.**

**MSV**

**WP No. 10427 of 2021**

**and W.M.P.No.11028 of 2021**

**04-02-2026**