



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2026

CORAM

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP No. 41828 of 2016

K.Duraiswamy
S/o.K.A.Kumaravelu, NO.47, C, Corai Pudur,
Coimbatore - 641 042

..Petitioner(s)

Vs

1. The Government of Tamil Nadu
Rep by Secretary to Government, Environment
& Forest department, Fort st. George,
Chennai-9.
2. The Principal Chief Conservator of Forest,
Panagal Maaligai, No.1, Jeenis Road, Saidapet,
Chennai-15.

..Respondent(s)

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for records relating to impugned order passed by first respondent in G.O. (D). No.174, Environment and forest (F-12) Department, dated 17.06.2013 and quash the same and direct the respondents to pay Rs.1,82,048/- to the petitioner recovered from his death-cum- terminal benefits.

For Petitioner(s): Ms.R.T.Sundari

For Respondent(s): Mr.C.Selvaraj,
Additional Government Pleader

**ORDER**

This Writ Petition has been filed seeking to quash the impugned order dated 17.06.2013 passed by the first respondent in G.O. (D). No.174, Environment and Forest (F-12) Department and to consequently direct the respondents to refund a sum of Rs.1,82,048/- recovered from the petitioner's death-cum-terminal benefits together with interest.

2. It is the case of the petitioner that he is a retired Forest Ranger, who initially entered into service as a Forester in the year 1970 and was subsequently promoted as Forest Ranger in 1994. The petitioner rendered long and unblemished service and attained superannuation on 30.06.2002. While the petitioner was serving in Kodaikkandal Range during the period between 16.05.1997 and 31.01.1998, disciplinary proceedings were initiated against him and five charges were framed. Pursuant to which, an enquiry was conducted and the Enquiry Officer held that out of the five charges, four stood proved. Based on the said findings, it was concluded that the Government has sustained a loss of Rs.12,66,490/-, out of which, the loss attributable to the petitioner was quantified at Rs.3,16,622/-. Further, a sum of RS.1,82,048/- was ordered to be recovered from his Death-cum-Retirement Gratuity, while the balance amount of Rs.1,34,574/- was waived. Challenging the same, the present writ petition has been filed.



3. The learned counsel for the petitioner submitted that although the petitioner was permitted to retire from service on 30.06.2002, the impugned order directing recovery of a sum of Rs.1,82,048/- was passed subsequently, on 17.06.2013. It is contended that the petitioner is not disputing the findings of guilt or the quantum of penalty, which was modified at the appellate stage, but rather questioned the legality of the recovery proceedings initiated after his retirement. It is further contended that once the petitioner was allowed to retire, the employer-employee relationship ceased to exist and therefore, the subsequent recovery is without jurisdiction.

4. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that the disciplinary proceedings were initiated against the petitioner in accordance with the provisions of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, based on credible information regarding large-scale illegal activities in the forest area under the petitioner's control. A detailed enquiry was conducted by the Enquiry Officer, after affording sufficient opportunity to the petitioner to submit his explanation and to defend his case. Upon completion of the enquiry, four out of five charges were held proved. Based on the findings of the Enquiry Officer and upon independent consideration by the competent authority, the Government passed orders imposing penalty, including recovery of a sum of Rs.1,82,048/- from the



petitioner's pensionary benefits, while waiving the balance amount. It is further submitted that the petitioner had also preferred an appeal before the Government, which was considered in consultation with the Tamil Nadu Public Service Commission and the punishment imposed was confirmed. He further submitted that the recovery has been ordered in accordance with the Tamil Nadu Pension Rules, particularly the provisions permitting adjustment of Government dues from gratuity and pensionary benefits. Therefore, the impugned order is legal, valid and passed in accordance with law and the Writ Petition is devoid of merits and liable to be dismissed.

5. Heard the learned counsel on either side and perused the materials available on record.

6. Admittedly, the petitioner was permitted to retire from service on 30.06.2002 and the disciplinary proceedings had culminated prior to his retirement. However, the impugned order directing recovery came to be passed subsequently on 17.06.2013. The issue that arises for consideration is whether such recovery can be effected after the cessation of the employer-employee relationship. This Court finds that the issue is no longer *res integra*. The Hon'ble Supreme Court in **(2015) 4 SCC 334 [State of Punjab and Others v. Rafiq Masih (White Washer)]** has categorically held that recovery from retired employees, particularly from pensionary benefits, is impermissible in law in the



absence of statutory sanction. Once the petitioner was allowed to retire, the employer-employee relationship ceased and the respondents cannot initiate recovery proceedings thereafter. Hence, the impugned order suffers from lack of jurisdiction and is liable to be set aside.

7. In the result, this Writ Petition stands allowed. The impugned order dated 17.06.2013 is set aside. The respondents are directed to refund the amount of Rs.1,82,048/- recovered from the petitioner, together with interest at 6% per annum, within a period of three months from the date of receipt of a copy of this order. No costs.

17-04-2026

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

VKR

To

- 1.The Secretary to Government,
Environment & Forest department,
Fort st. George, Chennai-9.
- 2.The Principal Chief Conservator of Forest,
Panagal Maaligai, No.1, Jeenis Road, Saidapet, Chennai-15.



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N.SENTHILKUMAR, J.

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