



WEB COPY

WP No. 20821 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-02-2026

CORAM

THE HON'BLE MR.JUSTICE T. VINOD KUMAR

**WP No. 20821 of 2021
and W.M.P.No.22090 of 2021**

M.Sundararaj

..Petitioner(s)

Vs

1.The State of TamilNadu
Rep by its Secretary to Government,
Environment and Forest Department,
Fort St.George, Chennai-9

2.The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet,
Chennai-15

3.The Principal Accountant General (A and E)
No.361 Anna salai,
TamilNadu, Chennai-18

4.The Sub Treasury Officer
Andipatti, Andipatti Taluk, Theni District

..Respondent(s)

Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in No.AG (A and E) / PEN.P21/ 12123764/ 1 / R2121650 dated 18.03.2021 and to quash the same with consequential direction to the respondents to refund the amount recovered from the petitioner within time frame.

For Petitioner(s):

Ms.K.Jenitha



For Respondent(s):

Mr.Veluchamy for R1 and R2
Additional Government Pleader
Mr.V.Vijayshankar for R3
Standing Counsel
Mrs.V.Yamunadevi for R4
Special Government Pleader

ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the first and second respondents and learned Standing Counsel for the 3rd respondent and learned Special Government Pleader for the fourth respondent and perused the materials available on record.

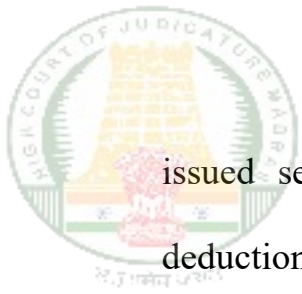
2. The case of the petitioner in brief is that he had retired from service on 30.11.2017 as Forest Watcher and his pension was sanctioned vide proceedings in No.P21/1/12121650/ dated 06.06.2019; that the respondents after authorising pension payment have issued the impugned proceedings dated 02.07.2021 seeking to recover an amount of Rs.1,68,658/- as excess pension amount and Rs.1,08,833/- as excess gratuity amount and Rs.1,11,878/- as excess commutation amount in all total to Rs.3,89,369/- as excess payment made during the period 01.12.2017 to 30.06.2021 i.e., for a period of 43 months; and that the aforesaid excess payment is sought to be recovered from July 2021 to June 2029 for a spread over period of 97 months for a sum of Rs.4,000/- per month.



3. The petitioner further contended that he having retired from services on 30.11.2017 and the respondents having fixed his pension on 06.06.2019, cannot now claim that the petitioner having received excess pension payment, as the aforesaid fixation has been undertaken by the respondents by themselves and there is no misrepresentation on behalf of the petitioner in getting the pension payment fixed or paid by the respondents.

4. It is the further contention of the petitioner that he had retired in the post of Forest Watcher and the said service fall under the category of Group “D” employees and as such, the respondents cannot recover the excess payment if any made / paid which has been paid to him not on account of any misrepresentation by him; and that the aforesaid recovery is contrary to the law laid down by the Hon’ble Apex Court in the case of ***State Of Punjab vs Rafiq Masih (White Washers) and others*** reported in (2015) 4 SCC 334.

5. Per contra, learned Government Advocate and learned Standing Counsel appearing for the respondents while not disputing the legal position, submits that on petitioner retiring from service on 30.11.2017 he had approached this Court by filing a writ petition and pending the aforesaid writ petition, the payment of pension was authorised on 06.06.2019 and in the meantime, the petitioner was paid pension and other emoluments in excess of his entitlement and for the said reason, the impugned proceedings have been



issued seeking to recover the excess payment made by way of monthly deductions spread over for a period of 97 monthly instalments.

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

7. The fact of petitioner having retired on 30.11.2017 while working as Forest Watcher and that the aforesaid post falls under “Group-D” category of employment is not in dispute. There is also no controversy or dispute that the petitioner plays no role in fixation of pension or the payments to be made by the respondent authorities.

8. On petitioner retiring from service on 30.11.2017, the respondents having authorised for payment of pension on 06.06.2019, had determined his entitlement for pension, gratuity, and commutation amount and on the basis of the calculation arrived at by them and have made the payment to the petitioner.

9. The respondents having determined amounts due and payable to the petitioner, cannot now after a period of 2 years after authorising pension, claim that there has been excess payment of pension amount, gratuity amount, and commutation amount, for them to take steps to recover the same by issuing the impugned proceedings.



10. Further, the petitioner being a Group-D employee, the respondents cannot seek to recover the alleged excess payment if any in the light of the decision of Hon'ble Apex Court in the case of ***State Of Punjab vs Rafiq Masih (White Washers) and others (supra)***.

11. The aforesaid principal laid down by the Hon'ble Apex Court has been reiterated again in the case of ***High Court of Punjab and Harayana and others vs. Jegdev Singh*** reported in (2016) 14 SCC 267.

12. This Court in similar circumstances applying the principal laid down by the Hon'ble Apex Court, had held that in case of Group-C and D employees, the respondents cannot be allowed to recover the excess amount paid which is not attributable to any misrepresentation on part of the employee. Since, in the facts of the present case, as it is an admitted fact that there has been no misrepresentation on the part of the petitioner, this Court is of the view that the impugned proceedings as issued by the 2nd respondent cannot be sustained.

13. Accordingly, this writ petition is allowed and the impugned proceedings is set aside. It is made clear that if any recovery is made on the basis of the impugned proceedings, the respondents shall refund the aforesaid amount to the petitioner without petitioner having to make any application in this regard. No costs. Consequently connected miscellaneous petition is closed.



19-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MSV

To

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