

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.134/2020

Dated Wednesday, the 29th day of January, 2020

PRESENT

Hon'ble Mr.P.Madhavan, Judicial Member

&

Hon'ble Mr.T.Jacob, Administrative Member

V. Mohanalingam

38A, 3rd

Muthuraja Street

Poonthottam, Thirumazhisai

Chennai – 600 124,

Kanchipuram Dist. (Tamilnadu)

...Applicant

By Advocate M/s. P.R. Satyanarayanan

Vs

1. Union of India represented by

The Principal Controller of Defence Accounts (Pensions)

G1, Civil, Draupathighat

Allahabad – 211 014.

2. The General Manager

Heavy Vehicle Factory

Avadi, Chennai 600 054.

3. Chief Manager

Indian Bank, CPPC, 4th Floor

No. 66, Rajaji Salai, Chennai – 600 001.

...Respondents

By Advocate Mr. K. Rajendran

(Order: Pronounced by Hon'ble Mr.P.Madhavan, Member(J))

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

"To call for the records relating to impugned order No. AT/PSB/VI/I.N.B/CPPC/2019 dated 21.02.2019 passed by the first respondent justifying reduction pension ordered without any show cause notice and quash the same as illegal, arbitrary and inconsistent with the series of orders issued by Govt. of India on fixation of pension w.e.f. 01.01.2006 and direct the respondents to

i. fix his basic pension as Rs. 7970/- to which the applicant is entitled to w.e.f. 01.01.2006 as per the table attached to O.M. F No 38/37/08-P&PW(A) dated 01.09.2008 along with all consequential benefits and

ii. to refund the entire amount so far recovered from the applicant and pass such further or other orders as this Tribunal may deem fit and proper in the circumstances of the case and thus render justice."

2. The applicant retired on superannuation as L.M.OMHE HS-II, HVF, Avadi on 30.04.2004. The basic pension of the applicant was fixed as Rs.3526 w.e.f 01.05.2004. After VI CPC, the applicant was receiving pension @ Rs.7694 w.e.f 01.04.2008 and till July 2016, the applicant was receiving pension @ Rs.16836. For the month of August 2016, only Rs.13,444 was credited to his account and he gave a complaint to the first respondent on 06.09.2016 regarding credit of less pension. On 04.10.2016, he was informed by the third respondent that there was an overpayment of Rs.4,54,313, which would be recovered @ Rs.4000 p.m. from pension paid from October 2016 till 31.03.2026. The applicant made representations dated 27.03.2017 & 13.08.2018 to the first respondent seeking restoration of earlier pension for which on 24.10.2018 the first respondent without considering the valid points put forth by the applicant replied that the applicant was entitled to basic pension of only Rs.5585/- p.m. w.e.f 01.01.2006. The applicant made another representation dated 04.02.2019 to the first respondent which evoked no response and hence this OA.

3. When the matter came up for admission, learned counsel for the applicant would submit that the applicant is entitled to the benefit of judgment of the Hon'ble Apex court in **Rafiq Masih's** case but the respondents are not considering the same. He submits that the applicant will be satisfied if the competent authority is directed to consider his representation dated 04.02.2019 in the light of the judgment of the Hon'ble Apex court in **Rafiq Masih's** case and pass orders, within a stipulated time limit. He also seeks interim relief of stay of recovery.

4. Mr.K.Rajendran, takes notice on behalf of the respondents and opposes stay of recovery. He submits that the respondents have no objection for disposal of the representation of the applicant on merits.

5. In view of the limited relief sought and without going into the merits of the case, the OA is disposed of in the following lines:

"The competent authority is directed to consider the representation of the applicant dated 04.02.2019 in the light of the judgment of the Hon'ble Apex court in Rafiq Masih's case and on the basis of the relevant rules and regulations and pass a reasoned and speaking order, within a period of four months from the date of receipt of a copy of this order. Further recovery from the applicant's pension is stayed till the disposal of the representation. "

(T.JACOB)
MEMBER (A)

29.01.2020

(P.MADHAVAN)
MEMBER (J)

M.T.