

**Central Administrative Tribunal
Madras Bench**

OA 310/01518/2018

Dated Monday the 3rd day of December Two Thousand Eighteen

P R E S E N T

Hon'ble Mr. R.Ramanujam, Member(A)

M. Manickam
Deputy Conservator of Forests (Retd.)
Government of Tamil Nadu
No. 54/5A/3, TVS Colony
Salem – 636 007. .. Applicant

By Advocate **M/s. M. Ravi**

Vs.

1. Union of India
Represented by Secretary to
Government of India, Ministry of Finance
Department of Expenditure
New Delhi.
2. The Deputy Secretary to Government of India
Ministry of Personnel Public Grievance
and Pension, Department of Personnel and Training
New Delhi.
3. The Deputy Accountant General (A/CS)
C/O. The Accountant General (A.&E.)
Tamil Nadu, Anna Salai
Teynampet, Chennai – 600 018.
4. The District Treasury Officer
Salem. .. Respondents

By Advocate **Mr. J. Vasu**

ORAL ORDER

Pronounced by Hon'ble Mr. R. Ramanujam, Member(A)

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 of the third respondent in Pro.Na.Ka.No.18890/2014/N1 dated 24.12.2014, and the order of the 3rd respondent in TM/1/2017-18/302/91965 dated 20.11.2017 to quash the same in so far as it relates recovery of Rs. 22,31,516/- from the applicant and to issue consequential directions to the respondent to refund to the applicant the amount recovered from him along with the interest on the same and pass such further or other orders”

2. This is the second round of litigation in the matter. Earlier, the applicant had filed OA 1224/2017 which was disposed of by an order of this Tribunal dated 31.07.2017 with a direction to the respondents to consider the representation of the applicant dated 10.04.2016 and the subsequent one dated 05.01.2017 in accordance with rules and pass a reasoned and speaking order. The Annexure A5 impugned order of the Accountant General (Accounts and Entitlements) Tamilnadu dated 20.11.2017 was passed in pursuance thereof, aggrieved by which the applicant is before this Tribunal again.

3. Learned counsel for the applicant submits that the applicant was covered by clauses (ii) and (iii) of para 18 of the judgment of the Hon'ble Supreme Court in State of Punjab and Others Vs Rafiq Masih (White Washer) and Others dated

18.12.2014. The impugned order fails to go into this issue. Accordingly it is liable to be set aside and respondents given a direction to waive the recovery as the same had been effected in respect of a retiring employee. The alleged excess payment had been occurred for over a period of five years.

4. Mr. J. Vasu takes notice for the respondents.

5. On perusal, it is seen that the applicant had sought the benefit of the aforesaid judgment of the Hon'ble Supreme Court which had also been accepted by the DOPT which passed OM dated 02.03.2016 in this regard directing that such cases should be considered in accordance with the law laid down by the Hon'ble Supreme Court. Wherever recovery was proposed to be waived, the cases should be referred to the Department of Expenditure. This procedure does not appear to have been followed in the instant case. Even the applicant had only filed OA 1224/2017 against the Government of Tamil Nadu. The Central Government was not impleaded therein.

6. Further the first respondent in the said case has not passed any order in compliance with the order of this Tribunal. It is only the second respondent who has passed the order wherein it is stated that the liability of pensionary benefits in respect of All India Service Officers is borne by the Central Government and the power to waive any recovery of excess pension vested only with the DOPT in terms of their order dated 02.03.2016.

7. In view of the above, I deem it appropriate to dispose of this OA with a direction to the applicant to make a representation regarding his grievance and

claim to the competent authority within a period of three weeks from the date of receipt of a copy of this order. On receipt of such representation, the first and second respondents may consider the request in accordance with law and pass a reasoned and speaking order within a period of three months thereafter.

8. OA is disposed of at the admission stage.

(R. Ramanujam)
Member(A)

AS