

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHENNAI BENCH**

**OA/310/01894/2016**

**Dated Monday the 17<sup>th</sup> day of September Two Thousand Eighteen**

**PRESENT**

**HON'BLE MR. R. RAMANUJAM, Member (A)**

A.Chidambaram,  
No. 1086, Pudhuvalavu Street,  
Ulagampatti PO,  
Sivagangai Dist. ....Applicant

By Advocate M/s. K. H. Ravikumar

Vs

1.The Senior Audit Officer/PACS,  
Office of the Principal Accountant General,  
Tamil Nadu & Puducherry,  
“Lekha Pariksha Bhavan”,  
No. 361, Anna Salai, Teynampet,  
Chennai 600018.

2.The General Manager,  
Centralized Pension Processing Centre,  
Indian Bank, 4<sup>th</sup> Floor,  
66, Rajaji Salai, Chennai 600001.

3.The Chief Workshop Manager,  
Ponmalai, Tiruchy 600104. ....Respondents

By Advocates Mr. V. Vijay Shankar (R1)  
M/s. Hemalatha Suresh (R2)  
Dr. D. Simon (R3)

**ORAL ORDER**

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

Heard. The applicant has filed this OA seeking the following relief :

" To call for the records relating to the impugned order issued by the first respondent in his Nil proceedings dated 24.03.2016 in pursuance of letter No. PACS/II/8-95/2015-16/302 dated 11.02.2016 and quash the same and forbear the respondents from making any deduction from his original pension and consequently direct the respondents to refund the deducted amount from his pension and to pass such suitable orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice. "

2. It is submitted that the applicant voluntarily retired from services of the respondents on 29.09.2007 and his pension was sanctioned and disbursed through SB A/c No. 405665105 before March 2016. The applicant was paid revised pension at the rate of Rs. 18,748/- per month including DA and other benefits. However, the 2nd respondent by their proceedings dt. 24.03.2016 passed an order in pursuance of a letter dt. 11.02.2016 from audit which was not communicated to the applicant. It was alleged that an overpayment of Rs. 73,764/- was made to the applicant on account of short deduction of commuted portion of the applicant's pension. As such, the said amount was sought to be recovered as overpayment for the period from 01.07.2011 to 01.02.2016. However, action had been initiated to recover the amount of Rs. 1,10,646/- for which there is no explanation whatsoever. Aggrieved by the unilateral action of the respondents, the applicant is before this Tribunal.

3. Learned counsel for the applicant would allege that there was no overpayment whatsoever and the applicant was entitled to the revised pension at

the rates authorised by the 6th Pay Commission and the pension was correctly enhanced from Rs. 5401/- at the time of retirement to Rs. 8815/- initially and further to Rs. 9090/- following a revision in the pay scale recommended by the 6th Pay Commission. It is pointed out that even the first and third respondents had, in their reply explained only the difference of Rs. 73,764/- and the reason for recovery of Rs. 1,10,646/- is not known as the 2nd respondent has filed no reply.

4. Learned counsel for the 3rd respondent would submit that the objection regarding short deduction was raised only to an extent of Rs. 73,764/- and the 3rd respondent is not aware of the reasons why it had been further enhanced to Rs. 1,10,646/-. He would, however, submit that he had received a copy of the reply filed by the 2nd respondent (which is not in the case file) which contained a tabular statement of the pension paid to the applicant and the deduction towards commutation made from June 2009 to October 2017 from which it appeared that the bank continued to deduct commutation value of pension at the rate of Rs. 2160/- per month only even after enhancement of the pension following 6th Pay Commission recommendations initially to Rs.8815/- p.m. which was further revised to Rs.9090/- p.m. thereafter. The statement however does not show how the amount of Rs. 1,10,646/- was arrived at.

5. Learned counsel for the 1st respondent would also submit that the 1st respondent had raised an audit objection regarding a short deduction of Rs.

73,764/- only and they were not aware of the reasons for the proposed recovery of Rs. 1,10,646/-.

6. Learned counsel for the applicant seeks to rely on the order passed by the Chandigarh Bench of this Tribunal in OA 44/2012 dt. 13.07.2012 whereby the amount of recovery from the pension of an allegedly similarly placed person was directed to be refunded. He also seeks to rely on the OM dt. 02.03.2016 of the DoPT, following the order of the Hon'ble Apex Court in the State of Punjab & ors Vs. Rafiq Masih (Whitewasher) case dt. 18.12.2014 and contends that as the applicant was a pensioner and he was not responsible for the faulty deduction, no recovery should be made from his pension.

7. I have considered the facts of the case in terms of the pleadings as well as the arguments presented by the rival sides. It appears from the copy of reply of the 2nd respondent received from the counsel for 3rd respondent that the 3rd respondent had issued a revised pension authority in favour of the applicant dt. 05.04.2009 following the 6th Pay Commission recommendations. Accordingly, the applicant's pension was raised to Rs. 8815/- with a direction that an amount of Rs. 1,31,549/- being the additional commutable pension due to 6th Pay Commission revision of pension be paid to the applicant. It was also stated that such additional amount paid as commutable pension would entail a further deduction of Rs. 1366/- per month upto 15 years from the date of payment. The applicant has not submitted a copy of this revised authority in the OA, nor has the 1st and 3rd respondents drawn attention to this in their reply.

8. From Annexure A4 letter of authority dt. 17.12.2010, it appears that the revised pension w.e.f 29.09.2007 was fixed at Rs. 9090/- on account of which the revised difference in commutation payable to the applicant was worked out as Rs. 11,236/-. The letter of authority authorised the credit of the said amount to the applicant and the revised deduction towards commutation was worked out as Rs. 3636/-. However, the bank did not make deductions at the revised rates. There is no word on the difference in value of commutation payable to the applicant as authorised in the two revised letters of authority as to whether the amounts of Rs. 1,31,549/- and Rs. 11,236/- were paid to the applicant or not. Clearly, if the bank had not credited the difference in commutable value of pension to the applicants account, the deduction at enhanced rates would be wholly unauthorised and uncalled for.

9. Learned counsel for the applicant is unable to inform the Court whether the applicant had received payment of the aforesaid amounts. I am accordingly of the view that this OA could be disposed of with a direction to the respondents to first ascertain whether the difference in commutable value of pension as authorised by the aforesaid two letters of authority was actually paid to the applicant or not. If it was not, the impugned communications/orders regarding deduction of monthly pension at enhanced rates shall be withdrawn. On the other hand, if the applicant had been paid the difference in commutable value at the relevant time and if it was a mere omission on the part of the authorities to draw the attention of the bank regarding non-deduction at enhanced rates, it is

for the official respondents to examine applicant's claim against the proposed recovery in terms of OM dt. 02.03.2016 of DoPT and pass necessary orders within a period of two months from the date of receipt of a copy of this order. The interim order of stay of recovery during the pendency of this OA, shall continue till then.

8. OA is disposed of in the above terms. No costs.

**(R. Ramanujam)**  
**Member(A)**  
**17.09.2018**

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