

(2009) 09 MAD CK 0166

Madras High Court

Case No: Writ Petition No. 7013 of 2007

M. Ramalingam

APPELLANT

Vs

The Secretary Public Special B  
Department, Pension Pay Officer  
and The Director of Treasuries

RESPONDENT

**Date of Decision:** Sept. 9, 2009

**Acts Referred:**

- Tamil Nadu Civil Pensions (Commutation) Rules, 1944 - Rule 11

**Hon'ble Judges:** D. Hariparanthaman, J

**Bench:** Single Bench

**Advocate:** P.I. Thirumoorthy, for the Appellant; P. Muthukumar, Government Advocate, for the Respondent

**Final Decision:** Dismissed

### Judgement

@JUDGMENTTAG-ORDER

D. Hariparanthaman, J.

The Original Application in O.A. No. 763 of 2002 before the Tamil Nadu Administrative Tribunal is the present writ petition and the same is totally misconceived.

2. The petitioner, who is a pensioner, seeks to quash the order dated 21.02.2000 of the first respondent, declining his request for refund of Rs. 7,985/- recovered from his pension and to restore the reduced pension to full pension from 01.12.1999, quoting Rule 11 of the Tamil Nadu Civil Pension (Commutation) Rules, 1944.

3. The petitioner was retired from service as Deputy Secretary to Government on 30.11.1972. He was sanctioned full pension of Rs. 472/-. He opted for commutation. Hence, he was permitted to commute Rs. 150/-.

4. On completion of 15 years from the date of commutation, the commuted value of pension of Rs. 150/- was restored and full pension was paid from 01.12.1987.

5. While so, when he was receiving Rs. 1,386/- as pension in July 1991, he applied again for commutation. Again, he was permitted to commute Rs. 263/- and he was paid a lumpsum amount of Rs. 18,052/-, being the commuted portion of pension.

6. The grievance of the petitioner is that full pension should be restored after the said amount of Rs. 18,052/- was recovered from and out of Rs. 263/- per month before 15 years period.

7. On the other hand, the learned Government Advocate for the respondents states that full pension will be restored only after 15 years, that is, only on 05.08.2006, as the commutation was made on 04.08.1991. After 05.08.2006, full pension was restored to the petitioner and thereafter, the option is left to him, whether to receive full pension or to seek for commutation.

8. At this juncture, it is relevant to extract para 5 of the reply affidavit filed by the second respondent, which gives answer to the issue raised by the petitioner.

5. According to Rule 11 of the Tamil Nadu Civil Pension (Commutation) Rules 1944, a commutation once given to, cannot be rescinded, that is the portion of a pension commuted cannot be restored on Refund of its Capitalised Value. Further, the benefit towards commutation cannot be measured in terms of amount recovered and period of recovery. As per rules, the lumpsum payable on commutation is calculated with the table of value prescribed by the Government. Hence, the Question of Refund (i.e. the recovery beyond the value of Rs. 18052/- of this case) does not arise. The Commuted Value of Pension of Rs. 263/- p.m. will be restored after 15 years from the date of commutation.

9. From the reasons stated above, it is very clear that the petitioner misconceived the concept of commutation of pension. Hence, the writ petition is dismissed. No costs.