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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP No. 4215 of 2026

S.Ashokkumar

..Petitioner(s)

Vs

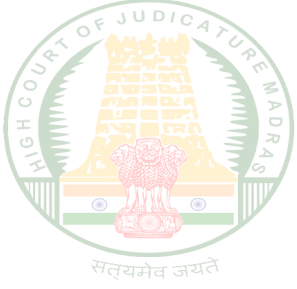
1. The Registrar General
High court of Madras,
Chennai-600 104.
2. The Subordinate Judge
Subordinate Court, Vandavasi,
Thiruvannamalai District.

..Respondent(s)

Calling for the entire records relating to Impugned Order dated 12.12.2025 made in Dis. NO. 2458/ 2025 on the file of 2nd Respondent herein, and quash the same and Consequently directing the 2nd respondent to reimburse the amount deduct from the petitioners salary from the month of December , 2025 based on the Impugned order dated 12.12.2025 made in Dis.No.2458/ 2025 on the file of 2nd Respondent.

For Petitioner(s): Mr.M.Sathyamoorthy

For Respondent(s): Mr.V. Balamurugane
Standing Counsel

**ORDER****(Order of the Court was made by S.M.Subramaniam J.)**

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Writ on hand has been instituted to set aside the impugned proceeding in Dis. No. 2458/2025 dated 12.12.2025 passed by 2nd respondent for recovery of excess pay and allowance of Rs.51,149/- from petitioner, to reimburse the amount recovered and to pass suitable orders.

2. The petitioner joined the post of Junior Assistant (Group - C) on 17.02.2016 by Direct Recruitment from TNPSC and was promoted to various levels. The writ petitioner was informed through impugned proceeding in Dis. No. 2458/2025 dated 12.12.2025, that pursuant to the findings of internal audit wing of the High Court, as per the Audit Objection, it was stated that *“though the above individual was appointed in Government Service on 17.02.2016 by Direct recruitment or otherwise, his pay has incorrectly been fixed at Rs. 20100 (pay level-8) on 17.02.2016 by multiplying the existing Pre-revised of Rs.5200+2400GP, which he was drawing on the date of his first appointment on 17.02.2016 in the post of Junior Assistant, with the factor of 2.57 which is in contravention to Para no.8 of the G.O.Ms.No.303 Fin (PC) Dept., dated 11.10.2017, in which it has been stated that the pay of the employees appointed first time on or after 01.01.2016 shall be fixed w.e.f. the date of appointment, at the minimum pay or the first cell in the respective cell applicable to the post to which such employees are appointed”,* based on which, the pay was revised accordingly, and excess pay and allowances paid



to the petitioner was sought to be recovered from his salary.

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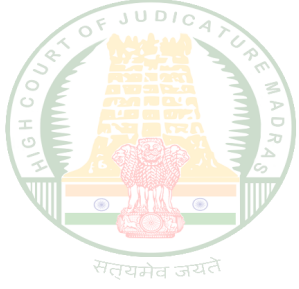
3. Unjust gain of public money is impermissible under law. In such circumstances, the Authorities Competent are empowered to rectify the errors in fixation of pay and grant the correct pay as applicable. Thus, the revised pay fixation granted by the respondents in accordance with the Pay Rules and Government Orders shall continue.

4. However, the respondents are unable to establish that there was a misrepresentation on the part of the employee during fixation of pay. It is an error committed by the Establishment for which the petitioner cannot be penalised after a lapse of many years. Recovery of excess salary at this length of time would result in extreme hardship to the employee.

5. In this regard, the Hon'ble Supreme Court of India also enumerated the legal principles in the case of **State of Punjab v. Rafiq Masih**¹ and held as hereunder:

“18.It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to

¹2015 4 SCC 334



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hereinabove, we may, as a ready reference, summarize the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.



6. In view of the facts and circumstances, the revision of pay effected pursuant to the Audit Objection is confirmed, but the recovery of excess pay alone is set aside. The excess amount, if any on account of the impugned order is directed to be re-paid to the petitioner within a period of 12 weeks from the date of receipt of a copy of this order. Accordingly, the impugned proceeding in Dis. No. 2458/2025 dated 12.12.2025 passed by 2nd respondent is set aside, with reference to the recovery of excess salary alone.

7. Accordingly, the Writ Petition stands partly allowed. Consequently, the connected Miscellaneous Petition, if any is closed. No costs.

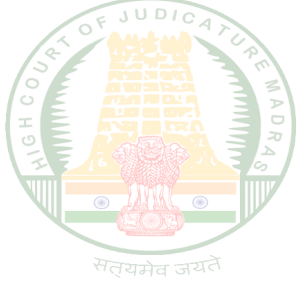
(S.M.S.,J.) (N.S.,J.)
09-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

GD

To

1. The Registrar General
High court of Madras,
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Subordinate Court, Vandavasi,
Thiruvannamalai District.



WEB COPY

WP No. 4215 of 2



**S.M.SUBRAMANIAM, J.
AND
N.SENTHILKUMAR, J.**

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WP No. 4215 of 2026

09-07-2026