



W.P.No.9243 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2025

CORAM

THE HONOURABLE MR.JUSTICE T.VINOD KUMAR

W.P.No.9243 of 2019

and

WMP.No.9783 of 2019

1.S.Saravanan
2.K.Gopalan
3.N.Kumaresan

...Petitioners

Vs.

1.The Principal Secretary to Government
Handloom, Handicrafts, Textiles and Khadi Department
Fort St. George
Chennai 600 009.

2.The Secretary to Government
Transport Department
Fort St. George
Chennai 600 009.

3.The Joint Commissioner of Transport
Chepauk
Chennai 600 005.

...Respondents



W.P.No.9243 of 2019

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Prayer: This Writ Petition is filed under article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the record pertaining to the impugned letter of the first respondent in கடித எண்.2928/எப்/2016-8 dated 19.12.2017 and consequential letter of the third respondent in கடித எண்.19109/ஆர்பி 2/2018 dated 04.03.2019 and quash the same.

For Petitioners : Mr.S.Raj Kumar

For Respondents : Mrs.V.Yamuna Devi
Special Government Pleader

ORDER

Heard the learned counsel for the petitioners and the learned Special Government Pleader for the respondents and perused the records.

2. The case of the petitioners in brief is that the first



W.P.No.9243 of 2019

respondent by proceedings dated 19.12.2017 and the
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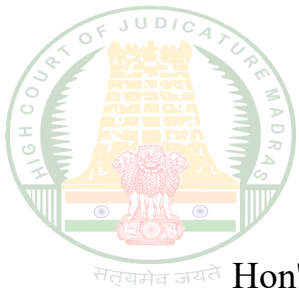
consequential letter of the third respondent dated 04.03.2019

sought to recover the increment amount paid to the petitioners by

treating there as eligible for Special Grade increment.

3. It is the further case of the petitioners that no notice has been issued to the petitioners before the respondent resorting to the aforesaid action and thus, the impugned proceedings is in violation of principles of natural justice.

4. It is the further case of the petitioners that since the petitioners fall under the category of Group “D” employees, the respondent cannot recover aforesaid amount which has been paid to them not on account of any misrepresentation by them; and that the aforesaid recovery is contrary to the law laid down by the
3/11



W.P.No.9243 of 2019

Hon'ble Apex Court in the case of ***State of Punjab Vs. Rafiq***

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Masih (White Washers) and others reported in ***2015 (4) SCC***

334.

5. The counter affidavit on behalf of the respondents is filed.

6. By the counter affidavit it is primarily contended that the petitioners being recognized as surplus employees of Tamil Nadu Khadi and Village Industries Board, are eligible only for pay protection and service protection rendered by them with Tamil Nadu Khadi and Village Industries Board for the purpose of sanctioning pensionary benefits under the various Government Orders namely G.O.(Ms).No.154 dated 21.11.2009 and G.O.(Ms).No.125 dated 02.09.2010; and that since, the petitioners were granted the benefit of selection/special grade

4/11



W.P.No.9243 of 2019

WEB COPY

contrary to the Government orders it is need to be cancelled and

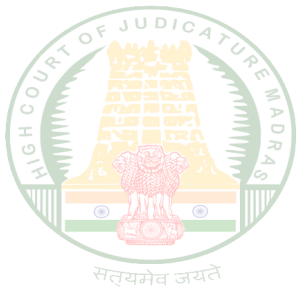
excess amount paid to the petitioners is to be recovered.

7. By the counter affidavit it is contended that since, the petitioners were granted increments by considering as eligible for special grade, the impugned proceedings were issued seeking for recovery of the excess amount paid.

8. I have taken note of the respective contentions urged.

9. Insofar as recovery of any excess amount paid to Group “C” /Group “D” employees is concerned the Hon'ble Apex Court in the case of *State of Punjab Vs. Rafiq Masih (White Washers) and others* (cited supra) had held as hereunder:

“18. It is not possible to postulate all situations of hardship which would govern



WEB COPY



W.P.No.9243 of 2019

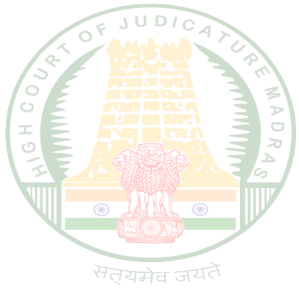
employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would 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.



W.P.No.9243 of 2019

WEB COPY

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

10. The said principle laid down by the Hon'ble Apex Court has been followed in the case of ***High Court of Punjab and Harayana and others Vs. Jegdev Singh*** reported 2016 (14) ***SCC 267.***

11. The Hon'ble Division Bench of this Court in Writ Appeal (MD).No.25495/2024 dated 02.12.2024 also held that in the case of Group “C” and Group “D” Employees recovery is not impermissible. Since, the petitioners are the Group “D” employees which statement has not controverted or denied by the respondents, applying the law laid down by the Hon'ble Apex Court, this Court is of the view that the respondents cannot be



W.P.No.9243 of 2019

WEB COPY

allowed the recover the excess amount paid to the petitioners on

account of being considered as selection grade employees as such

payment is not on account of any misrepresentation by the

petitioners but is purely attributable to the respondents.

12. Accordingly, the Writ Petition is allowed to the extent of seeking to recover the excess amount paid is set aside. No costs. Consequently connected Miscellaneous Petition is closed.

26.11.2025

Index : Yes/No

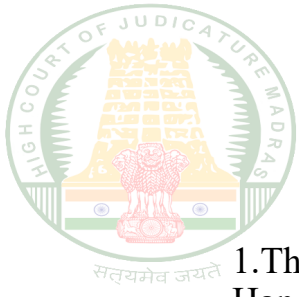
Speaking order : Yes/No

Neutral Case Citation : Yes/No

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8/11

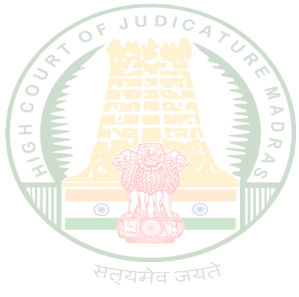


W.P.No.9243 of 2019

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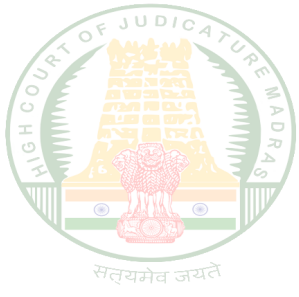
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W.P.No.9243 of 2019
T.VINOD KUMAR, J.

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W.P.No.9243 of 2019
and WMP.No.9783 of 2019



WEB COPY



W.P.No.9243 of 2019

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