

WEB COPY

WP No. 26921 of 2



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. 26921 of 2025
& WMP.No.30234 of 2025**

S.Anguraj

..Petitioner(s)

Vs

1. The Registrar General,
High Court Madras – 104.
2. The Principal District Judge,
Udhagamandalam.
3. The Chief Administrative Officer,
Principal District Court,
Coimbatore.

..Respondent(s)

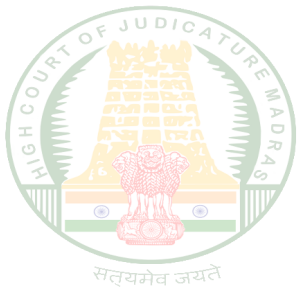
Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records of recovery order in Proceedings in B.No.125/2022 dated 06.10.2022 to recover the excess amount of Rs.2,01,534/- passed by the 3rd respondent, and quash the same and consequently direct the respondents to remit back the recovered amount of Rs.2,01,534/- to the petitioner.

For Petitioner(s):

Mr.Ajay Kanna
for Mr.S.Tamilselvan

For Respondent(s):

Mr.P.Kannan Kumar

**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 recovery order in B.No.125/2022 dated 06.10.2022 passed by the 3rd respondent for recovery of excess pay and allowance of Rs.2,01,534/- from petitioner and direct the respondents to remit back the recovered amount to petitioner and to pass suitable orders.

2. The petitioner is working as Sherishtadar under 2nd respondent. While the petitioner was promoted from Head Clerk (Cat II) to Head Clerk (Cat I), he was sanctioned one increment for his promotion. The writ petitioner was informed through impugned proceedings, that pursuant to the findings of the internal audit wing of the High Court, as per G.O.Ms.No.234, Fin (PC) Department dated 01.06.2009, the annual increment as well as promotion increment to be awarded is 3% benefit only after 01.01.2006 and that 5% increment benefit was in force in the pre-revised pay structure up to 31.12.2005. However, the petitioner has been granted 5% increment benefit. Based on the audit objection, the pay was revised accordingly, and excess pay and allowances paid to the petitioner was sought to be recovered from his salary vide the impugned recovery order.

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.

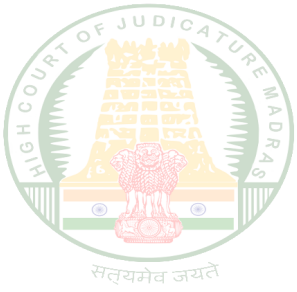
4. However, the respondents are unable to establish that there was a misrepresentation on the part of the employee during fixation of pay. It is an error committed by the Establishment for which the petitioner cannot be penalised after a lapse of many years. Recovery of excess salary at this length of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

¹ 2015 4 SCC 334



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Class III and Class IV service (or Group C and Group D service).

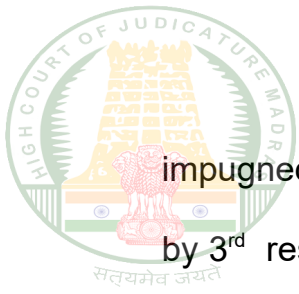
(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(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, recovered 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 recovery order made in B.No.125 of 2022 dated 06.10.2022 passed by 3rd respondent is set aside, with reference to the recovery of excess salary

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

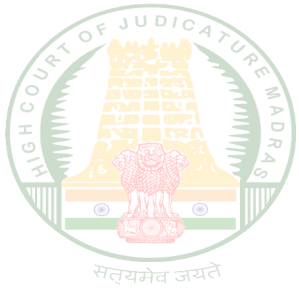
(S.M.S.,J.) (N.S.,J.)
23-06-2026

Index: Yes
Speaking order
Neutral Citation: Yes/No

TSG

To

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High Court Madras – 104.
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3. The Chief Administrative Officer,
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AND
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