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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. 38553 of 2025

M.Manjula

W/o. A.Manikanda Subramaniasiva , No. 55/174

1st Floor, South North Street, Vannarapalayam,

Cuddalore District

..Petitioner(s)

Vs

1. The Registrar General
High Court Madras -104
2. The Principal District Judge
Cuddalore
3. The 1st Additional District Judge
Cuddalore
4. The Principal District Munsif
Cuddalore

..Respondent(s)

Call for the records of Office Order No. 98 of 2023 dated 30.12.2023 passed by 4th respondent for recovery of excess pay and allowance of Rs. 93,976/- from petitioner and quash the same and consequently direct the respondents 1 to 4 to remit back the recovered amount to petitioner and pass

For Petitioner(s): Mr.Ajay Kanna for Mr.S.Tamilselvan

For Respondent(s): Mr.C.R.Malarvannan



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

Writ on hand has been instituted to set aside the Office order No.98/2023 dated 30.12.2023 passed by 4th respondent for recovery of excess pay and allowance from petitioner and direct the respondents to remit back the recovered amount and pass further orders as the court deems fit and proper in the interest of justice.

2. The petitioner is now working as Head Clerk under the 3rd respondent. She was initially appointed as Junior Assistant and was promoted to the post of Assistant on 13.10.2017. Writ petitioner was informed through impugned proceedings in Office Order No.98/2023 dated 30.12.2023, that pursuant to the internal audit wing of the High Court, the scale of pay was found to be excessive. 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.

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.



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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 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.

¹2015 4 SCC 334



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(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 order made in Office order No. 98/2023 dated 30.12.2023 passed by 4th 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 stands closed. No costs.

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

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

GD

To

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High Court Madras -104
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Cuddalore
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**S.M.SUBRAMANIAM, J.
AND
N.SENTHILKUMAR, J.**

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