



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2026

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**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR**

**W.P.NO.42022 OF 2025
AND
WMP NOS.47071 AND 47072 OF 2025**

K.Amutha
W/o. Jayaprakash
No.39/55, Ramanayakkan Kula Street,
Velippalayam,
Nagapattinam.

... Petitioner

Vs.

1.The Registrar General
High Court of Madras
High Court Campus,
Chennai – 600 104.

2.The Principal Secretary to Government
Home (Court V) Department
Fort. Saint George,
Chennai – 600 009.

3.The Principal District Judge
Nagapattinam.

4.The Principal Accountant General (A and E)
AG's Office (Audit) Complex,
Anna Salai,
Roast Revor Garden,
Teynampet, Chennai – 600 018.

5.The District Treasury Officer
Nagapattinam.

... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the record of the third respondent in connection with the proceedings ORDER No.72/2025 dated 03.09.2025 and quash the same and consequently direct the respondents to continue to pay at the existing fixation of pay and not to recovering the alleged excess amount paid to the petitioner.

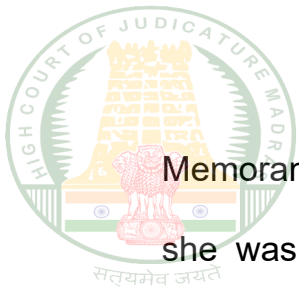
For Petitioner : Mr.A.Sakthivel
For Respondents 1 & 3 : Mr.Anand Subramanian
For Respondents 2 & 5 : Dr.R.Gouri
For Respondent – 4 : Mr.S.Mahesh
for Mr.V.Vijay Shankar

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.72/2025-2026, dated 03.09.2025 passed by third respondent for recovery of excess pay and allowance of Rs.69,450/- from petitioner and direct the respondents to continue to pay at the existing fixation of pay and not to recover the alleged excess amount paid to the petitioner.

2.The petitioner was initially selected and appointed as Steno Typist Grade – III, on temporary basis, on 27.03.1997 and she joined duty on 01.04.1997. She was ousted from service on 31.01.2000. Thereafter, she was selected and allotted to the Judicial Department by TNPSC as per

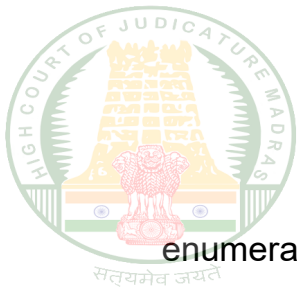


Memorandum dated 01.08.2001 and she joined duty on 10.09.2001 and later, she was promoted to the post of Steno-Typist Grade – II on 11.08.2018.

Subsequently, she was promoted to the post of Steno-Typist Grade – I on 06.08.2019. Writ petitioner was informed through impugned proceedings in Office Order No.72/2025-2026 dated 03.09.2025, that pursuant to the report of internal audit wing of the High Court, the grant of sanction of advance increment on 01.06.2009 in the post of Steno-Typist Grade – III was held inadmissible to the petitioner. Based on the audit objection, the pay was revised accordingly, and excess pay and allowances paid to the petitioner was sought to be recovered in 35 monthly instalments.

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**

WEB **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.

(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

¹2015 4 SCC 334



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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 twelve (12) weeks from the date of receipt of a copy of this order. Accordingly, the impugned order made in Office Order No.72/2025-2026, dated 03.09.2025 passed by third respondent is set aside, with reference to the recovery of excess salary alone.

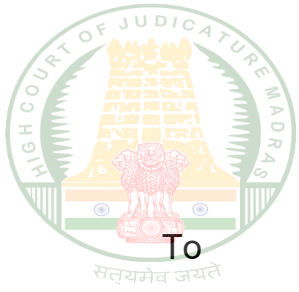
7. Accordingly, the Writ Petition stands partly allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

[S.M.S., J.]

[N.S., J.]

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Index : Yes
Speaking Order : Yes
Neutral Citation : Yes / No
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