

W.P.(MD) No.21735 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	: 19.12.2025
Delivered on	: 19.02.2026

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.P.(MD) No.21735 of 2022
and
W.M.P.(MD) Nos.15896, 15897 & 23308 of 2022

M.Lakkumanan

... Petitioner

Vs.

The Sessions Judge,
Fast Track Mahila Court,
Srivilliputhur,
Virudhunagar District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the impugned order passed by the respondent in



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No.nil, dated 27.07.2022 and quash the same.

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For Petitioner : Mr.R.V.Rajkumar

For Respondent : Mr.M.Mohideen Basha

JUDGMENT

(Judgment of the Court was made by R.Kalaimathi J.)

Challenge is made to the proceedings of the Sessions Judge, Fast Track Mahila Court, Virudhunagar District at Srivilliputhur, dated 27.07.2022 passed in respect of Tr.M.Lakkumanan, Sheristadhar of Mahila Court, Virudhunagar District at Srivilliputhur, ordering recovery of excess payments of Rs.14,25,226/-.

2. The impugned proceedings was issued based on the Audit Slip No.1, dated 22.01.2020 (Camp at Fast Track Mahila Court, Srivilliputhur) issued by the Audit Officer at camp.

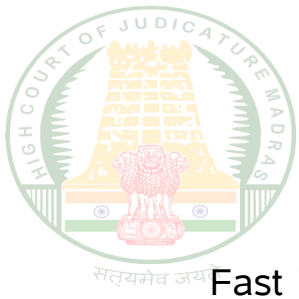


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3. The writ petitioner joined as a Copyist on 24.05.1993 in the judicial department. After getting various promotions, he was promoted to the post of Sub Court Sheristadar from the post of Senior Superintendent of Copyist on 01.04.2015. After crossing further levels, he was promoted to the post of Sheristadhar from Bench Clerk Grade I on 25.04.2019. Thereafter, he was transferred to the Fast Track Mahila Court, Virudhunagar and posted as Sheristadhar.

3.1. Based upon the Audit Slip No.1, dated 22.01.2020 (Camp at Fast Track Mahila Court, Srivilliputhur) issued by the Audit Officer at camp, the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar, on receipt of explanation from the individual, has passed impugned recovery proceedings dated 27.07.2022. By the impugned proceedings, an amount of Rs. 14,25,229/- is sought to be recovered in 8 installments (Rs. 50,000/- x 8 = Rs.4,00,000/-) and from his D.C.R.G. The abovesaid proceedings passed by the learned Sessions Judge,



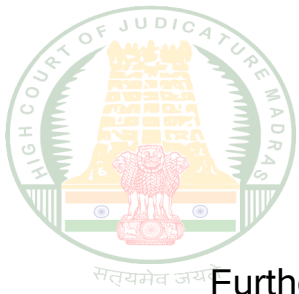
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Fast Track Mahila Court, Virudhunagar is impugned herein. This writ petition is filed on 13.09.2022.

4. The individual was promoted to the post of Head Clerk of Judicial Magistrate Court, Sattur on 17.10.2008 and his pay was fixed at Rs.4,200/- Grade Pay. On 01.12.2009, the individual was promoted to the post of Bench Clerk Grade II, at Sub Court, Srivilliputhur and Grade pay was fixed at Rs.4,300/-. Thereafter, he was promoted as Head Clerk, Sub Court, Srivilliputhur on 01.12.2009 and the Grade Pay was fixed at Rs.4,800/-. On 29.05.2017, he was promoted to the post of Category I Officer as Bench Clerk Grade I at the Grade Pay of Rs.5,100/-.

5. In the case of *Syed Abdul Qadir vs. State of Bihar* reported in (2009) 3 SCC 475, it has been held by the Apex Court that when the excess unauthorised payment is detected within a short period of time, it would be open for the employer to recover the same. Conversely, if the payment had been made for a long duration of time, it would be iniquitous to make any recovery.



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Further, the Hon'ble Apex Court, in a catena of decisions, has granted relief against the recovery of excess payment of emoluments/allowances in the following circumstances:

- (a) if the excess amount was not paid on account of any misrepresentation or fraud on the part of the employee,
- (b) if such excess payment was made by the employer by applying wrong principle for calculating pay/allowance or on the basis of a particular interpretation of Rule/order, which is subsequently found to be erroneous.

6. In *ITC Limited vs. State of Uttar Pradesh and others* reported in (2011) 7 SCC 493, it has been held as under:

"108. We may give an example from service jurisprudence, where a principle of equity is frequently invoked to give relief to an employee in somewhat similar circumstances. Where the pay or other emoluments due to an employee is determined and paid by the employer, and subsequently the employer finds, (usually on audit verification) that on account of wrong understanding of the applicable rules by the officers implementing the rules, excess payment is



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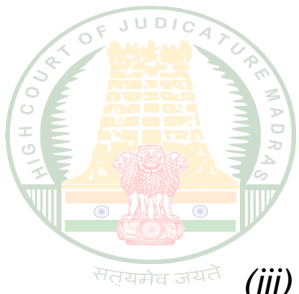
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made, courts have recognized the need to give limited relief in regard to recovery of past excess payments, to reduce hardship to the innocent employees, who benefited from such wrong interpretation."

7. In the case of *State of Punjab vs. Rafiq Masih (White Washer) and others* reported in (2015) 4 SCC 334, it has been held as under:

"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 herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

- (i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).*
- (ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.*



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(iii) Recovery from 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 be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

8. Reverting back to this case, certainly not on account of misrepresentation or fraud played by the writ petitioner, the excess payments have been made. In such circumstances, ordering recovery is not justified and we refrain from the same. However, with caution note, it is stated that pay fixation and granting of increments shall be done with utmost seriousness and in accordance with relevant G.O/ROC/Circular/Instruction letters/Pay



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commission rules, etc., by bearing in mind that the Government Exchequer is not burdened unnecessarily.

9. With these observations, this writ petition is allowed. Sequel to this, the impugned order stands set aside. No costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [R.K.M., J.]
19.02.2026
(2/2)

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
apd
To

The Sessions Judge,
Fast Track Mahila Court,
Srivilliputhur,
Virudhunagar District.



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G.R.SWAMINATHAN,J.

AND

R.KALAIMATHI, J.

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