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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. 8938 of 2026,

WP NO. 8957 OF 2026, WP NO. 8943 OF 2026, WP NO. 8962 OF 2026, WP
NO. 8972 OF 2026

WP No. 8938 of 2026

G.Sathish

..Petitioner(s)

Vs

1. The Registrar General,
High Court of Judicature at Madras,
Chennai-104
2. The Principal secretary to Government
Home (Court V) Department,
Fort St.George, Chennai 09
3. The Principal Accountant General (A and E)
AGs office, (Audit) Complex,
Anna Salai, Roast Revor Gardent,
Teynampet Chennai 18
4. The Presiding officer
Labour Court At Udhagamandalam
5. The District Treasury
Udhagamandalam
6. The district Judge
The Nilgiris,
at Udhagamandalam

..Respondent(s)



S.Chitra

WP No. 8957 of 2026

WP No. 8938 of 2



..Petitioner(s)

Vs

1. The Registrar General,
High Court of Judicature at Madras,
Chennai-104
2. The Principal secretary to Government
Home (Court V) Department,
Fort St.George, Chennai 09
3. The Principal Accountant General (A and E)
AGs office, (Audit) Complex,
Anna Salai, Roast Revor Gardent,
Teynampet Chennai 18
4. The Subordinate Judge
udhagamandalam
5. The District Treasury
Udhagamandalam
6. The District Judge
The Nilgiris,
at Udhagamandalam

..Respondent(s)

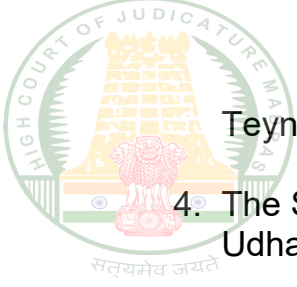
WP No. 8943 of 2026

T.Sivakumar

..Petitioner(s)

Vs

1. The Registrar General,
High Court of Judicature at Madras,
Chennai-104
2. The Principal secretary to Government
Home (Court V) Department,
Fort St.George, Chennai 09
3. The Principal Accountant General (A and E)
AGs office, (Audit) Complex,
Anna Salai, Roast Revor Gardent,



Teynampet Chennai 18

4. The Subordinate Judge
Udhagamandalam

5. The District Treasury
Udhagamandalam

6. The district Judge
The Nilgiris,
at Udhagamandalam

WP No. 8962 of 2026

M.Senthilkumar

Vs

1. The Registrar General,
High Court of Judicature at Madras,
Chennai-104
2. The Principal secretary to Government
Home (Court V) Department,
Fort St.George, Chennai 09
3. The Principal Accountant General (A and E)
AGs office, (Audit) Complex,
Anna Salai, Roast Revor Gardent,
Teynampet Chennai 18

4. The District Judge
The Nilgiris
at udhagamandalam

5. The District Treasury
Udhagamandalam

..Respondent(s)

..Petitioner(s)

WP No. 8972 of 2026

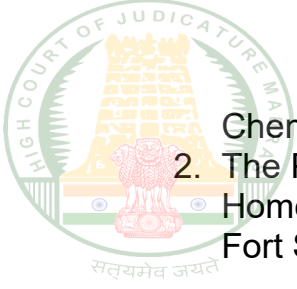
L.Antony Santhosh

Vs

1. The Registrar General,
High Court of Judicature at Madras,

..Respondent(s)

..Petitioner(s)



Chennai-104

2. The Principal secretary to Government
Home (Court V) Department,
Fort St.George, Chennai 09

3. The Principal Accountant General (A and E)
AGs office, (Audit) Complex,
Anna Salai, Roast Revor Gardent,
Teynampet Chennai 18

4. The Chief Judicial Magistrate
Udhagamandalam

5. The District Treasury
Udhagamandalam

6. The district Judge
The Nilgiris,
at Udhagamandalam

..Respondent(s)

WP No. 8938 of 2026

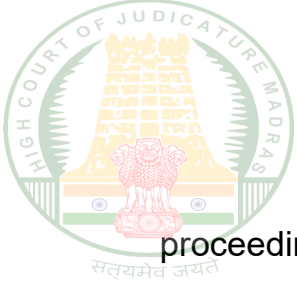
Calling for records of the 4th respondent in connection with the proceedings in Progs. No. 80/2025 dated 4.11.2025 and quash the same and direct the 4th respondent to return the amount that has been recovered from the petitioner and pass

WP No. 8957 of 2026

Calling for records of the 4th respondent in connection with the proceedings in Progs. No. 54/2025 dated 10.11.2025 and quash the same and direct the 4th respondent to return the amount that has been recovered from the petitioner and pass

WP No. 8943 of 2026

Calling for records of the 4th respondent in connection with the proceedings in Progs. No. 57 /2025 dated 13.11.2025 and quash the same and direct the respondents to return the amount that has been recovered from the petitioner and pass

**WP No. 8962 of 2026**

Calling for records of the 4th respondent in connection with the proceedings in Progs. No. 313/2025 dated 22.10.2025 and quash the same and direct the 4th respondent to return the amount that has been recovered from the petitioner and pass

WP No. 8972 of 2026

calling for records of the 4th respondent in connection with the proceedings in B1 Progs. No. 92/2025 dated 27.10.2025 and quash the same and direct the respondents to return the amount that has been recovered from the petitioner

For Petitioner(s):	Ms.Sujith As
For Respondent(s):	Mr.S. Giridharan for R1, 4 & 6
	Mr. T. Ravikumar For R3
	No appearance for R2 and 5

Common Order

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

The batch of writ petitions on hand have been instituted to set aside the impugned proceedings in Progs No. 80/2025 dated 04.11.2025 in W.P. No. 8938 of 2026; Progs No. 57/2025 dated 13.11.2025 in W.P. No. 8943 of 2026; Progs No. 54/2025 dated 10.11.2025 in W.P. No. 8957 of 2026; B1. Progs No. 313/2025 dated 22.10.2025 in W.P. No. 8962 of 2026 and B1. Progs No. 92/2025 dated 27.10.2025 in W.P. No. 8972 of 2026 for recovery of excess pay and allowance from petitioners and direct the respondents to refund the recovered amount to petitioners.



2. The petitioners were initially appointed as Night Watchman/Masalchi and later promoted as Office Assistant. The petitioners were sanctioned one promotional increment for their transfer from Night Watchman/Masalchi to Office Assistant. The writ petitioners were informed through respective impugned proceedings, that pursuant to the findings of the internal audit wing of the High Court, the grant of sanction of one promotional increment for their transfer from Night Watchman/Masalchi to Office Assistant was held inadmissible to the petitioners as Class IV Employees may be appointed to Class III posts only by way of transfer of service and not by promotion, even though the scale of pay for the above posts are identical. Based on the audit objection, the pay was revised accordingly, and excess pay and allowances paid to the petitioners were sought to be recovered from their 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.

4. However, the respondents are unable to establish that there were a misrepresentation on the part of the employees during fixation of pay. It is an error committed by the Establishment for which the petitioners 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 employees.

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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:

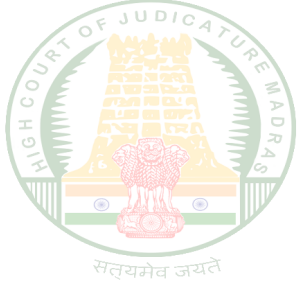
(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

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

(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

¹2015 4 SCC 334



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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 respective Audit Objections are confirmed, but the recovery of excess pay alone is set aside. The excess amount, if any recovered on account of the impugned orders is directed to be re-paid to the petitioners within a period of 12 weeks from the date of receipt of a copy of this order. Accordingly, the impugned proceedings in Progs No. 80/2025 dated 04.11.2025 in W.P. No. 8938 of 2026; Progs No. 57/2025 dated 13.11.2025 in W.P. No. 8943 of 2026; Progs No. 54/2025 dated 10.11.2025 in W.P. No. 8957 of 2026; B1. Progs No. 313/2025 dated 22.10.2025 in W.P. No. 8962 of 2026 and B1. Progs No. 92/2025 dated 27.10.2025 in W.P. No. 8972 of 2026 are set aside, with reference to the recovery of excess salary alone.



7. Accordingly, the Writ Petitions stand partly allowed. Consequently, the connected Miscellaneous Petitions, if any are closed. No costs.

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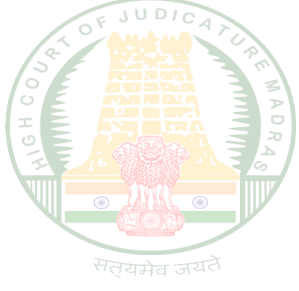
(S.M.S.,J.) (N.S.,J.)
09-07-2026

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

GD

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**S.M.SUBRAMANIAM J.
AND
N.SENTHILKUMAR J.**

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**WP No. 8938 of 2026,
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1/2