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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. 6733 of 2026

V.Jayachandran

..Petitioner(s)

Vs

1. The Registrar General,
High Court of Madras,
High court campus
Chennai-104
2. The Principal secretary to Government
Home(court V) Department
Fort Saint George
Chennai-9
3. The District Judge -cum Chief Judicial
Magistrate
The Nilgiris
Udhagamandalam
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
The Nilgiris
6. The Subordinate Judge
Gudalur,
The Nilgiris

..Respondent(s)



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Writ Petition filed under Article 226 of the Constitution of India issuing writ of certiorarified mandamus calling for the record of the 6th respondent in connection with the proceedings Progs No.22/2021 dated 16.3.2021 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(s): Mr.A.Sakthivel

For Respondent(s): M/s. S. Giridharan For Rr1, 3 & 6
Mr. T. Ravikumar Sc For R4
No appearance for R2&5

Order

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

The Writ Petition has been filed calling for the records of the 6th respondent in impugned proceedings in Progs No. 22/2021 dated 16.03.2021, quash the same, consequently direct the respondents to pay at the existing fixation of pay and not to recovery the excess amount paid.

2. The petitioner was initially temporarily appointed as Copyist on 09.10.1995. Later he joined as Junior Assistant in Subordinate Judge Court, Udhagamandalam, with effect from 01.10.1999. Thereafter, serving as assistant in Additional District Munsif Court Gudalur, he got promoted as Central Nazir in District Court Udhagamandalam. The petitioner was informed through impugned order dated 16.03.2021, 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 salary paid to the petitioner was sought to be recovered from the writ petitioner's salary and retirement benefits.

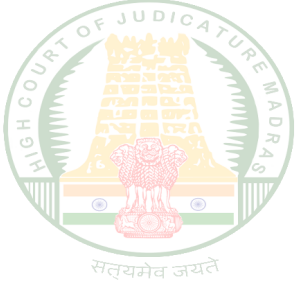
3. Unjust gain of public money is impermissible under law. In such circumstances, the Authorities Competent are empowered to rectify the errors in fixation of pay and grant the correct pay as applicable. Thus, the revised pay fixation granted by the respondents in accordance with the Pay Rules and Government Orders shall continue.

4. However, the respondents are unable to establish that there was a misrepresentation or the petitioner had given an undertaking at the time of revision of scale of pay. In the absence of any one of these aspects, recovery of excess salary from the writ petitioner 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

¹2015 4 SCC 334



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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:

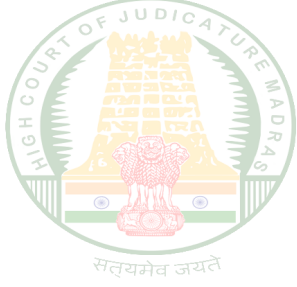
(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(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 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.

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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 proceeding in Progs No.22/2021 dated 16.3.2021 passed by 6th 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 is closed. No costs.

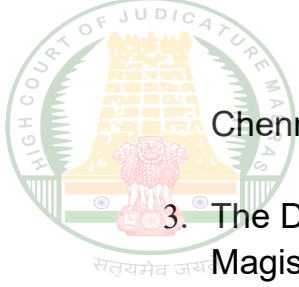
(S.M.S.,J.) (N.S.,J.)
09-07-2026

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

GD

To

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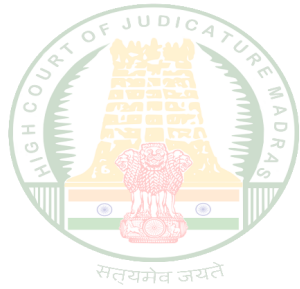
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S.M.SUBRAMANIAM J.

AND

N.SENTHILKUMAR J.

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