



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-07-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP No. 13447 of 2026

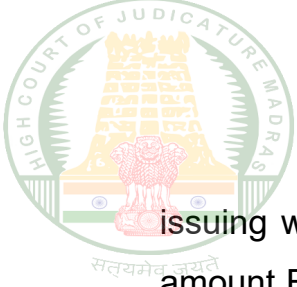
M.Dhandapani,
S/o.Madhuchetty,
No.2/194-A, Venkatampatti,
Mathamangalam,
Dharmapuri.

..Petitioner(s)

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-9.
3. The Principal District Judge,
Dharmapuri.
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,
Dharmapuri.
6. The Family Judge,
Family Court,
Dharmapuri District.

..Respondent(s)



WEB COPY

Writ Petition filed under Article 226 of the Constitution of India issuing writ of mandamus to direct the 4th respondent to repay the recovery amount Rs.52,078/- (Rupee fifty two thousand and seventy eight only) excess pay recover from the petitioner from the 01.10.2017 to 30.06.2022 paid by the petitioner based on the petitioner representation date 01.12.2025 and fixed time framed.

For Petitioner(s): Mr.M.Selvam

For Respondent(s): Mr.R.Sunil Kumar for R1, R3 & R6,
Ms.V.Kanchana for
Mr.V.Vijay Shankar, Standing Counsel for R4

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

Writ of mandamus has been instituted to direct the respondents to refund the recovered amount of Rs.52,078/-

2. Petitioner was awarded one promotional increment by the establishment for the transfer from the post of Selection Grade Night Watchman to Office Assistant. The said increment was subsequently ordered to be recovered on the ground that it was erroneously granted as Class IV employees may be appointed to the Class III category posts only by transfer of service and not by promotion, even though the scale of pay for the above posts are identical.



3. Learned counsel for the petitioner would submit that as per the show cause notice issued based on the audit objection, he had deposited the alleged excess money paid to him to the tune of Rs.52,078/- in the treasury by e-challan dated 08.06.2022, on the presumption that he may not be allowed to retire from service. However, petitioner came to understand that Courts have held that excess salary paid inadvertently cannot be recovered. Thus, he filed the present writ petition.

4. No doubt, petitioner has deposited the recovery amount on the pretext that only on depositing the said amount, he will get his terminal and pensionary benefits. However, he further states that the increment was granted by the establishment, and there was no misrepresentation on his part.

5. Recovery made based on the audit objection cannot be sustained, in view of the fact that petitioner retired from service. Excess salary paid from the year 2017 was deposited mainly on the circumstance that petitioner was expecting settlement of pensionary and terminal benefits. Therefore, it may not be construed as voluntary deposit by the petitioner. However, if any excess salary paid is recovered, then the said amount is to be refunded. In the present case, petitioner himself had deposited the excess salary amount of Rs.52,078/-.



6. 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.

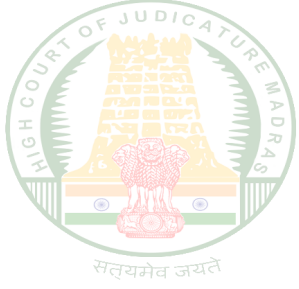
7. In this regard, the Hon'ble Supreme Court of India also enumerated the legal principles in the case of **State of Punjab v. Rafiq Masih**¹ and held as hereunder:

“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



WEB COPY

(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.

8. In view of the facts and circumstances, the revision of pay effected pursuant to the Audit Objection is confirmed. The excess amount deposited to the tune of Rs.52,078/- 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.



9. With the above directions, the writ petition is allowed. No costs.

Consequently, the connected miscellaneous petitions, if any, are closed.

WEB COPY

(S.M.S.,J.) (N.S.,J.)
23-07-2026

Index: Yes/No

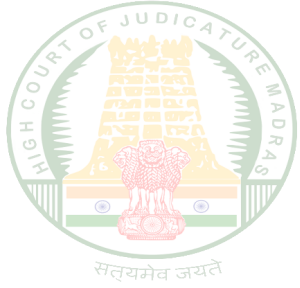
Speaking/Non-speaking order

Neutral Citation: Yes/No

GD

To

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-9.
3. The Principal District Judge,
Dharmapuri.
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,
Dharmapuri.
6. The Family Judge,
Family Court,
Dharmapuri District.



WEB COPY



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

GD

WP No. 13447 of 2026

23-07-2026