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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-07-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP No. 29799 of 2025

and

W.M.P.Nos.33422 & 33423 of 2025

A. Shenbagavalli
W/o. M. Nedumaran,
No.4/105, Kandasamy Koil Street, Hale
Dharmapuri,
Dharmapuri District-636 701

..Petitioner(s)

Vs

1. The Registrar General
High Court Of Madras,
Chennai-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 Sub-ordinate Judge,
Palacode.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India to



issue a Writ of Certiorarified Mandamus to call for the records of the 6th Respondent in connection with the proceedings of Roc No.961/2023 dated 24.08.2023 quash the same and consequently 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.

For Petitioner(s): Mr.A.Sakthivel

For Respondent(s): Ms.N.K.Kanthimathi, for R1, R3 & R6,
Dr.R.Gouri, Government Counsel for R2 & R5,
Mr.T.Ravi Kumar, Standing Counsel for R4

ORDER

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

Writ Petition has been filed challenging the order of the 6th respondent dated 24.08.2023 and consequently, direct the respondents to continue to pay the existing fixation of pay and not to recover the alleged excess amount paid to the petitioner.

2. The petitioner was appointed as Copyist on 13.01.1999 and her service was regularised on 14.01.1999. She was promoted to various posts and lastly, served as Central Nazir in the Sub-Court at Palacode. While serving as such, an official memorandum dated 24.08.2023 was issued stating that her pay was wrongly fixed and excess amount has to be recovered. The petitioner gave her reply on the same day. However, on the same day i.e., on 24.08.2023, the impugned proceedings was passed stating that the excess amount already paid to the petitioner from 14.01.1999 to 31.07.2023



amounting to Rs.4,94,326/- is recovered from D.C.R.G. Hence, the present writ petition.

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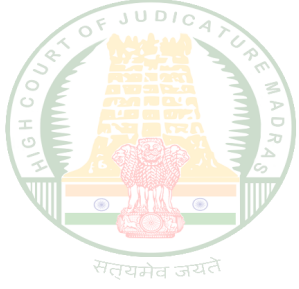
3. Unjust gain of public money is impermissible under law. In such circumstances, the authorities competent are empowered to rectify the errors in fixation of pay and grant the correct pay as applicable. Thus, the revised pay fixation granted by the respondents in accordance with the Pay Rules and Government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

¹2015 4 SCC 334



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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.



6. In view of the facts and circumstances, the revision of pay effected 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 order is set aside, with reference to the recovery of excess salary alone.

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

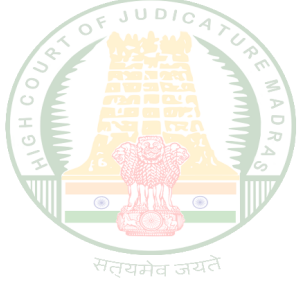
(S.M.S.,J.) (N.S.,J.)
15-07-2026

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

VSI

To

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

vsi

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