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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2026

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THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP No. 14224 of 2026

K.Manimozhi

..Petitioner(s)

Vs

1. The Registrar General,
   High Court of Madras, Chennai-104

2. The Judge,
   Family court
   Thiruvannamalai District

3. The Subordinate Judge
   Subordinate court
   Polur
   Thiruvannamalai District

..Respondent(s)

Writ petition filed under Article 226 of the Constitution of India issuing writ of certiorari calling for the entire record relating to the impugned order dated 12.09.2025 made in Dis.No.763 of 2025 on the file of the 2nd respondent herein and quash the same.

For Petitioner(s): Mr.M.Sathyamoorthy

For Respondent(s): Mr. M. Elango

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ORDER

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

Writ on hand has been instituted to set aside the impugned proceeding in Dis.No.763/2025 dated 12.09.2025 passed by 2nd respondent for recovery of excess pay and allowance of Rs.4,20,297/- from petitioner and direct the respondents to pass such suitable orders.

2. The petitioner joined as Shorthand Typist (Group C) on 01/02/2000 and served in various places and designations. Presently, the petitioner is working as Grade III Bench Clerk. In 2023, the 3rd respondent issued Office Memoranda Dis No. 723/2023 dated 10/07/2023 and subsequently Dis No.972/2025 dated 18/07/2025, which are the show cause notices, stating that pursuant to the findings of internal audit wing of the High Court, it was found that her pay was fixed wrongly at the time of pay fixation, leading to an excess payment that is liable to be recovered, for which the petitioner was granted time to submit her explanation. Further, the writ petitioner was informed through impugned proceeding in Dis.No.763/2025 dated 12.09.2025, which is also a show cause notice, that pursuant to the findings of internal audit wing of the High Court, the excess payment of Rs.4,20,297/- was sought to be recovered from the salary of the writ petitioner, for which the petitioner was granted time to submit her explanation.

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3. Normally no Writ would lie against the show cause notice and the noticee on receipt is expected to submit their explanation in response to the notice defending his/her case. However, a writ would lie where the competent authority has issued the notice without jurisdiction.

4. The learned counsel for the petitioner would submit that an order of recovery was passed insisting the petitioner to file the writ petition.

5. 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, in accordance with the Pay Rules and Government Orders.

6. Unless, 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.

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

[1]2015 4 SCC 334

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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 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

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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. This Court is of the view that if any recovery order is passed pursuant to the re-fixation of pay, such recovery alone is liable to be set aside. If no recovery is made, the recovery shall not be made for the excess payment. However, the re-fixation of pay shall be carried out strictly in accordance with the applicable Pay Rules and the Government Orders in force.

9. Accordingly, the writ petition stands disposed of. If any recovery has been made pursuant to the audit objection and show cause notice, the said amount is directed to be refunded to the petitioner, within a period of twelve (12) weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected miscellaneous petition, if any is closed.

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

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

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S.M.SUBRAMANIAM, J.

AND
N.SENTHILKUMAR, J.

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