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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-07-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP No. 26630 of 2026

and

W.M.P.No.29131 of 2026

D.Sivakumar
S/o Dhanapal,
MM Sons Nagar,
Manampoondi, Villupuram 605 759

..Petitioner(s)

Vs

1. The Registrar General,
High Court of Madras,
Chennai 600 104
2. The Principal Secretary,
Home Department V (Courts)
Fort St. George,
Chennai
3. The Session Judge
Special court for Exclusive Trial of cases,
Under POCSO Act,
Villupuram
4. The District Munsif,
cum Judicial Magistrate,
Vikravandi
5. The Principal District Judge,
Villupuram
6. The District Treasuries Office,
Kallakurichi

..Respondent(s)



Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to direct the 3rd respondent to call for the records vide proceedings in office order No.4/ 2024 dated 06.01.2024 passed an order of recovery of excess pay and allowance for a sum of Rs.1,88,134/- to quash the same as arbitrary, illegal and unconstitutional, in violation of Articles 14 and 21, consequently direct the Respondents not to recovery any amount from the petitioners salary and further direct the 4th and 5th respondents to refund any amount already recovered, with all consequential benefits.

For Petitioner(s): Mr.P.Anand Kumar

For Respondent(s): Mr.Ebenezer Paul for R1, 3, 4 & 5

ORDER

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

Writ Petition has been filed to call for the records of the 3rd respondent Office Order No.4/2024 dated 06.01.2024, ordering to recover the excess pay and allowance of Rs.1,88,134/- and consequently, direct the respondents, not to effect any recovery from the petitioner's salary and to refund the amount already recovered.

2. The petitioner was initially appointed as Junior Assistant on 03.04.2001 and promoted to various posts. He is presently working as Central



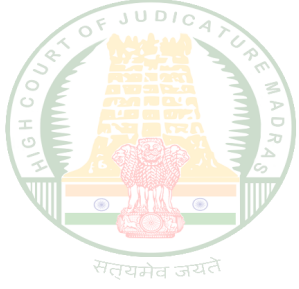
Nazir. On subsequent promotions, his pay was revised. While so, the 3rd respondent issued Office Order No.4/2024 dated 06.01.2024, directing recovery of a sum of Rs.1,88,134/-, allegedly paid in excess during the period from 01.11.2013 to 31.12.2023. The petitioner submitted representations. However, the impugned proceedings dated 06.01.2024 came to be passed, directing recovery of a sum of Rs.1,88,134/-.

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:

¹2015 4 SCC 334



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“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:

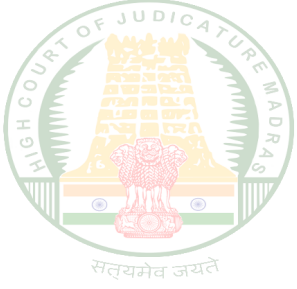
(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(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 the employee, would iniquitous or harsh or



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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 petition is closed.

(S.M.S.,J.) (N.S.,J.)
10-07-2026

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

VSI

To

1. The Registrar General
High Court of Madras,
Chennai 600 104.
2. The Principal Secretary
Home Department V (Courts)
Fort St. George, Chennai



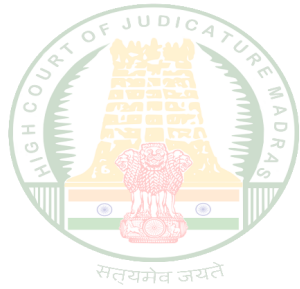
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**S.M.SUBRAMANIAM, J.
AND
N.SENTHILKUMAR, J.**

vsi

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