



WEB COPY

WP No. 27053 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-07-2026

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THE HON'BLE MS. JUSTICE P.T. ASHA

WP No. 27053 of 2025

and

WMP.No.27053 of 2025

S.Thamaraiselvan

..Petitioner(s)

Vs

1. The Deputy Director
Of Health Services, Kancheepuram
2. The Block Medical Officer
Community Health Centre, Manampathi 603
403 Kancheepuram District

..Respondent(s)

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus call for the entire records relating to Impugned Proceedings 07.09.2022 passed in R.No. 546/ A1/ 2022 on the file of the 2nd respondent and Impugned proceedings 15.03.2023 passed in Na.Ka.No. 546/ A1 /2022 on the file of the 2nd respondent quash the same consequently directing the respondents to refund sum of Rs. 4,77,238/- with interest and fix his original pay scale with all attendant benefits within a stipulated period of time as fixed by this Honble court.

For Petitioner(s): Mr.R.Ezhilarasan

For Respondent(s): Mr..Gokulraj, Govt. Advocate



ORDER

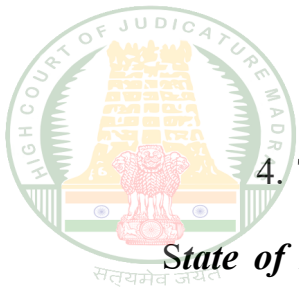
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This Writ Petition has been filed for the following reliefs:-

“call for the entire records relating to Impugned Proceedings 07.09.2022 passed in R.No. 546/ A1/ 2022 on the file of the 2nd respondent and Impugned proceedings 15.03.2023 passed in Na.Ka.No. 546/ A1 /2022 on the file of the 2nd respondent quash the same consequently directing the respondents to refund sum of Rs. 4,77,238/- with interest and fix his original pay scale with all attendant benefits within a stipulated period of time as fixed by this Honble court.”

2. The petitioner was appointed as a Multipurpose Health Assistant in the Health Department on 28.06.1989 and was subsequently promoted to the cadre of Health Inspector Grade-I and thereafter as Block Health Supervisor. He retired from service on 31.01.2023 on attaining the age of superannuation.

3. While so, the 2nd respondent, without issuing any notice to the petitioner or affording him an opportunity of hearing, passed the impugned proceedings dated 07.09.2022 and 15.03.2023, refixing his pay and directing recovery of the alleged excess amount of Rs.4,77,238/-. Aggrieved by the said proceedings, the petitioner has approached this Court seeking the reliefs stated supra.



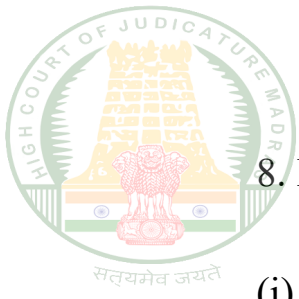
4. The issue of recovery was the subject matter of the Judgement of the *State of Punjab Vs. Rafiq Masih (White Washer) etc.*, reported in **2015 (4)**

SCC 334. The Hon'ble supreme Court has held that the recovery cannot be done without issuing a show cause notice. That apart, the Hon'ble Supreme Court has laid down five contingencies wherein recovery by the employers is impermissible in law. One such contingency is that recovery is impermissible from retired employees or employees who are due to retire within one year from the date of the order of recovery.

5. In the Judgement of this Court in WP.No.6401 of 2025 dated 24.03.2025, this Court, in similar circumstances, had directed refund of the money already recovered within a period of 6 weeks from the date of receipt of the order with interest at 6% p.a.

6. In the instant case also the impugned order directs that the sum of Rs.4,77,238/- should be recovered from the petitioner's pensionary benefits.

7. In the light of the above, the amount of Rs.4,77,238/- cannot be sought to be recovered. In case the amount has been recovered the same shall be refunded to the petitioner within a period of one month from the date of receipt of a copy of this order.



8. In fine, the Writ Petition is partly allowed as follows:

(i) The order directing recovery of the excess amount is set aside and any amount already recovered shall be refunded to the petitioner within a period of one (1) month from the date of receipt of a copy of this order.

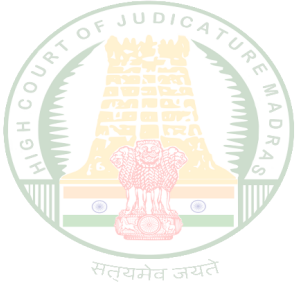
(ii) Insofar as the other relief relating to re-fixation of pay is concerned, the petitioner is directed to give a representation to the respondents and on such representation being made, the same shall be considered and appropriate orders shall be passed within a period of two months after affording the petitioner a personal hearing and an opportunity to put forth his objections to the proposed re-fixation of pay.

No costs. Consequently, the connected Miscellaneous Petition is closed.

13-07-2026

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

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P.T.ASHA J.

SHR

To

1. The Deputy Director
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2. The Block Medical Officer
Community Health Centre,
Manampathi 603 403 Kancheepuram District

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