



WEB COPY

WP No. 29607 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

**WP No. 29607 of 2025
& WMP.No.33174 of 2025**

A.Murugesan

..Petitioner(s)

Vs

1. The Principal District Judge
Dharmapuri District Court,
Dharmapuri.

2. The Treasury Officer,
District Treasury Office,
Dharmapuri.

..Respondent(s)

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for records pertaining to the order passed by the 1st respondent in ROC No.5084/2022 dated 09.11.2022 to recover Rs.2,85,629/- being over payment of pay and allowances for the period from 14.07.2005 to 31.10.2022 from the petitioner and quash the same as illegal and direct the 1st respondent to pass appropriate orders to refund the recovered amount to the petitioner.

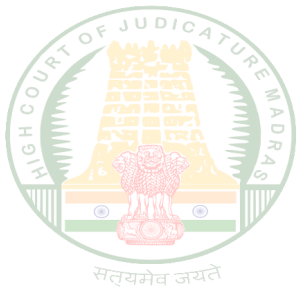
For Petitioner(s):

Mr.A.E.Ravichandran

For Respondent(s):

Mr.M.Palanimuthu for R1

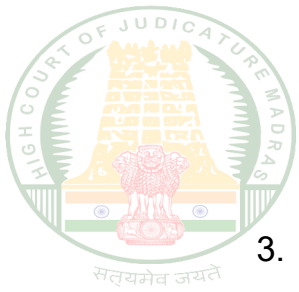
R2 – No appearance

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

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Writ on hand has been instituted to set aside the order in ROC No.5084 /2022 dated 09.11.2022 passed by 1st respondent for recovery of excess pay and allowance of Rs.2,85,629/- from petitioner and direct the respondents to refund the recovered amount to petitioner and pass suitable orders.

2. The petitioner was initially appointed as Steno-typist Grade III on 14.07.1995, and later promoted to the post of Steno-typist Grade I on 06.02.2015 and subsequently, retired from service on attaining superannuation on 31.07.2023. An audit objection was raised by way of notice stating that the petitioner's pay was wrongly fixed when he was granted Selection Grade in the post Steno-typist Grade III, with effect from 14.07.2005 and one advance increment for passing the Account Test for Subordinate Officers Part – I was given for exercising option for promotion to the post of Assistant with effect from 31.12.2010. However, the petitioner did not serve as Assistant, but got promoted as Steno-Typist Grade I, with effect from 06.02.2015 and the overpayment due to wrong fixation of pay was sought to be recovered. Subsequently, a Recovery order was passed by the 1st respondent in the impugned proceeding in R.O.C.No.5084/2022 dated 09.11.2022 and a total sum of Rs.2,85,629/- was sought to be recovered from the petitioner's salary and DCRG.



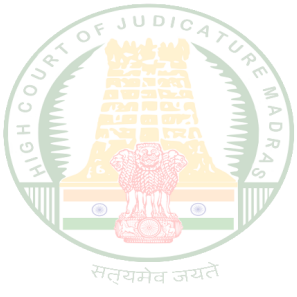
3. Unjust gain of public money is impermissible under law. In such circumstances, the Authorities Competent are empowered to rectify the errors in fixation of pay and grant the correct pay as applicable. Thus, the revised pay fixation granted by the respondents in accordance with the Pay Rules and Government 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, based on the decisions referred to hereinabove, we may, as a ready reference,

¹ 2015 4 SCC 334



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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 pursuant to the Audit Objection 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 made in R.O.C. No. 5084/2022 dated 09.11.2022 passed by 1st respondent is set aside, with reference to the recovery of excess salary alone.

7. Accordingly, the Writ Petition stands partly allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

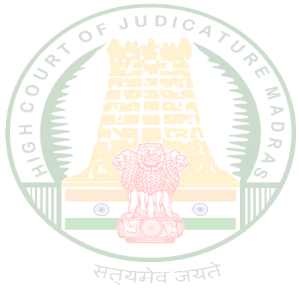
(S.M.S.,J.) (N.S.,J.)
09-07-2026

Index: Yes
Speaking order
Neutral Citation: Yes/No

TSG

To

1. The Principal District Judge
Dharmapuri District Court,
Dharmapuri.
2. The Treasury Officer,
District Treasury Office,
Dharmapuri.



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

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