



WEB COPY

WP No. 29394 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. 29394 of 2025
& WMP.Nos.32932 & 32936 of 2025**

P.Gangabai

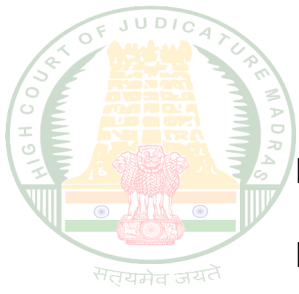
..Petitioner(s)

Vs

1. The Registrar General,
Madras High Court, Chennai.
2. The Accountant General,
Office of the Accountant General (A & E),
Chennai, Tamil Nadu.
3. The Subordinate Judge,
District Court, Thiruvannamalai.
4. The District Munsif,
District Court, Thiruvannamalai.

..Respondent(s)

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records by the Audit Para Remarks dated 23.12.2022 recorded by the 1st respondent and recovery order dated 12.02.2025 issued by 2nd respondent and recovery order issued by the 4th respondent dated 07.03.2025 and quash the same as illegal, arbitrary and non-est in law and consequently direct the respondents to refund a sum of Rs. 3,46,513/- along with interest at the rate of 18 % per annum from 07.03.2025 to till the date of disbursement and refix the pensionary benefits of the petitioner by fixing her Last Drawn Pay at Rs. 50,300/- within the time stipulated by this Court.



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For Petitioner(s):

Mr.A.Maheshnath

For Respondent(s):

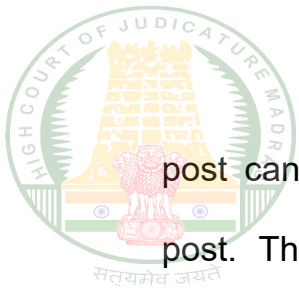
Mr.M.Fakkir Mohideen for R1, R3 & R4
Ms.V.Kanchana,
Mr. V. Vijay Shankar for R2

ORDER

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

Writ on hand has been instituted to set aside the recovery orders dated 12.02.2025 and 07.03.2025 passed by the respondents 2 and 4 respectively, for recovery of excess pay and allowance of Rs.3,46,513/- from petitioner and consequently to direct the respondents to refund the said sum along with interest at the rate of 18 % per annum from 07.03.2025 till the date of disbursement and to re-fix the pensionary benefits of the petitioner by fixing her Last Drawn Pay at Rs. 50,300/- within the time stipulated by this Court.

2. The petitioner was initially appointed as Copyist on 04.02.1999, and later promoted to the post of Typist on 14.06.2006. The petitioner was conferred with Selection Grade pay in the post of Typist on 08.02.2009 on completion of 10 years of service. The Writ petitioner retired from service on 31.01.2025 on attaining superannuation and consequently, the 2nd respondent had sanctioned the pensionary benefits by fixing his last drawn pay as Rs.50,300/-. While that being so, the Writ Petitioner was informed through show cause notice dated 22.01.2024, that pursuant to the internal audit wing report of the High Court, the selection grade pay granted to the petitioner in the post of Typist was held inadmissible, as the services rendered in the lower



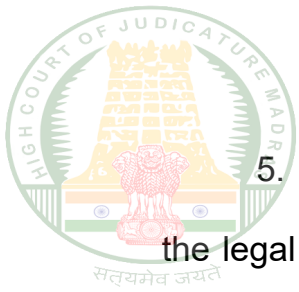
post cannot be taken into account for awarding Selection Grade in higher post. The 2nd respondent also made remark in Admissibility Report that

“Increment for the post of Typist on 17/03/2006 is not in order. PB'S calculated based on the PLD arrived at Rs. 50300/-. Hence the difference.”

The writ petitioner was informed through impugned proceeding dated 07.03.2025, that pursuant to the remark in Admissibility Report of 2nd respondent, the pay was revised accordingly, and excess pay and allowances paid to the petitioner was sought to be recovered from her 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, 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

¹ 2015 4 SCC 334



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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.

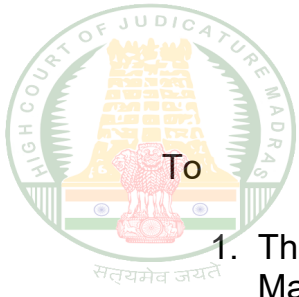
6. In view of the facts and circumstances, the revision of pay effected pursuant to the Audit Objection and Admissibility Report is confirmed, but the recovery of excess pay alone is set aside. The excess amount alone, which was recovered on account of the impugned orders is directed to be re-paid to the petitioner within a period of 12 weeks from the date of receipt of a copy of this order. Accordingly, the impugned recovery orders dated 12.02.2025 and 07.03.2025 passed by respondents 2 and 4 are set aside, with reference to the recovery of excess salary alone.

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

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

Index: Yes
Speaking order
Neutral Citation: Yes/No

TSG



To

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Madras High Court, Chennai.
2. The Accountant General,
Office of the Accountant General (A & E),
Chennai, Tamil Nadu.
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