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WP No. 29479 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-07-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP Nos. 29479 & 29480 of 2026

W.P.No.29479 of 2026

Chandrika
W/o.Pandiyan
No.2/9, Perumal Kovil South Mada Street,
Tindivanam, Villupuram-604 001

..Petitioner

Vs

1. The Registrar
High Court of Madras,
Chennai-600 104
2. The Principal District Munsif
Tindivanam,
Villupuram District-604 001

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India to call for the records relating to the impugned order of the 2nd respondent by her proceedings in courts officer order No.6/2023 dated 20.01.2023 and quash the same and consequently direct the respondents to remit back the recovered amount to the petitioner within time stipulated by this Hon'ble Court.

W.P.No.29480 of 2026

Chandrika
W/o.Pandiyan
No.2/9, Perumal Kovil South Mada Street,
Tindivanam, Villupuram-604 001

..Petitioner



Vs

1. The Registrar
High Court of Madras,
Chennai-600 104

2. The Sub-Judge,
Gingee, Villupuram

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus to call for the records relating to the impugned order of the 2nd respondent by his proceedings in D.No.917/2016 dated 10.04.2026 and quash the same and consequently direct the respondents to remit back the recovered amount to the petitioner within time stipulated by this Honble Court.

For Petitioner: Mr.B.R.Sivasubramaniam

For Respondents: Mr.V.Balamurugane

COMMON ORDER

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

Writ Petitions have been filed challenging the order of the 2nd respondent in Court Officers' Order No.6/2023 dated 20.01.2023, ordering recovery of excess pay, and the proceedings of the 2nd respondent in D.No.917/2016 dated 10.04.2026, refixing the pay of the petitioner and consequently, direct the respondents to remit back the recovered amount to the petitioner.

2. The petitioner was initially appointed as Copyist in the Judicial Department and thereafter, promoted as Junior Assistant with one increment. The petitioner got selection grade in Junior Assistant with effect from 22.03.2011. Subsequently, she was promoted as Assistant on 30.04.2013.

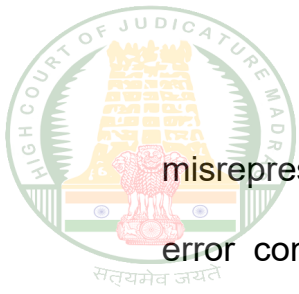


The petitioner was redeployed to the post of Assistant to Bench Clerk, Grade-II vide order dated 30.05.2014 and thereafter, promoted as Head Clerk in the

Court Judicial Magistrate No.II, Tindivanam, vide order dated 03.08.2017. The petitioner was further promoted as Bench Clerk Grade-II by order dated 13.04.2018 and later, promoted as Category-III, Head Clerk at Principal District Munsif Court, Gingee, vide order dated 30.04.2019. While so, an audit objection was raised and a sum of Rs.1,51,399/- was stated to be paid in excess to the petitioner for the period from 02.06.2014 to 31.12.2022 and the same was ordered to be recovered. Thereafter, the petitioner was promoted as Central Nazir, Sub Court, Gingee on 23.01.2024 and later, as Sherishtadar in Sub Court, Gingee. The petitioner was permitted to retire from service on reaching superannuation on 31.10.2025. After her superannuation, pursuant to the proceedings of the Accountant General, Chennai, dated 10.09.2025, the Sub Judge, Gingee, vide proceedings, dated 10.04.2026, ordered for recovery of pay for the incorrect fixation of pay as on 12.03.2017 to 31.10.2025 and refixed the pay of the petitioner. Hence, the present writ petition came to be filed.

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

¹2015 4 SCC 334



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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.

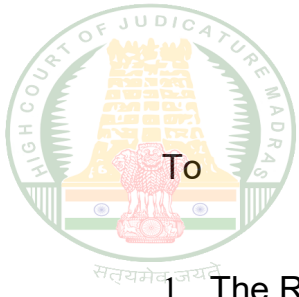
6. In view of the facts and circumstances, the revision of pay effected is confirmed, but the recovery of excess pay alone is set aside. The excess amount, if any, recovered on account of the impugned orders, is directed to be re-paid to the petitioner within a period of 12 weeks from the date of receipt of a copy of this order. Accordingly, the impugned order is set aside, with reference to the recovery of excess salary alone.

7. Accordingly, the Writ Petitions are partly allowed. No costs.

(S.M.S.,J.) (N.S.,J.)
28-07-2026

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

vsi



To
1. The Registrar
High Court of Madras,
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2. The Principal District Munsif
Tindivanam,
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3. The Sub-Judge,
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**S.M.SUBRAMANIAM, J.
and
N.SENTHILKUMAR, J.**

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