



WEB COPY

WP No. 31118 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-08-2026

CORAM

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

WP No. 31118 of 2026

and

WMP No. 34215 of 2026

J.Lakshmi Narayanan

..Petitioner(s)

Vs

1. The Secretary to Government
Public Health and Preventive Medicine
Department,
Secretariat,
Chennai 600 009
2. The Director of Public Health and
Preventive Medicine,
O/o the Director of Public Health and
Preventive Medicine
DMS complex, Chennai 600 006
3. The Principal Accountant General (A and E)
No 361 Anna Salai,
Chennai 600 018
4. The District Health Officer
Virudhunagar District,
Virudhunagar
5. The Block Medical Officer
Government Primary Health Centre,
M. Reddiapatti Post,
Virudhu Nagar District

..Respondent(s)



Prayer: This writ petition is filed under Article 226 of the Constitution of India, seeking writ of certiorarified mandamus calling for the records in pursuant to the impugned order passed by the 3rd respondent in Letter No E08/ 2 / 10834502 / ADK 08.07.2026 and the consequential order passed by the 5th respondent in proceedings R.No 491/ A1 / 2025 dated 21.07.2026 and in proceedings Na.Ka. No 491/ A1 2025-1 dated 21.07.2026 and quash the same and consequently direct the respondents to disburse the all attendant and monetary benefits without any deduction and to pay the pension by commuting the pay of the petitioner by merging the 5 percent PP within a stipulated time.

For Petitioner(s): Mr. M.Saravanakumar

For Respondent(s): Mr. K.Sathish
Government Advocate
R1, R2, R4 & R5

Mr. Arjun Suresh
Standing Counsel
R3

Order

This writ petition is filed for the following relief:

“To call for the records in pursuant to the impugned order passed by the 3rd respondent in Letter No E08/ 2 / 10834502 / ADK 08.07.2026 and the consequential order passed by the 5th respondent in proceedings R.No 491/ A1 / 2025 dated 21.07.2026 and in proceedings Na.Ka. No 491/ A1 2025-1 dated 21.07.2026



and quash the same and consequently direct the respondents to disburse the all attendant and monetary benefits without any deduction and to pay the pension by commuting the pay of the petitioner by merging the 5 percent PP within a stipulated time.”

2. The petitioner was appointed as Leprosy Inspector on 07.03.1988. On 01.08.1997, his post was designated as Health Inspector Grade – I B and selection grade pay and special grade pay was also awarded to the petitioner on 08.03.1998 and 08.03.2008, respectively. On 01.12.2014, the petitioner was promoted as Block Health Officer and selection grade pay for the said cadre was also granted on 01.05.2020. The petitioner retired from service on 31.07.2026.

3. The grievance of the petitioner is that scale of pay of the petitioner was revised and an order of recover was passed vide orders dated 08.07.2026 and 21.07.2026, without notice. Challenging the same, the petitioner is before this Court.

4. Heard the learned counsels on the either side and perused the records.



5. 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.

6. That apart, the Hon'ble Supreme Court had laid down five contingencies where recovery by the employers was impermissible in law and the same would read as follows:-

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

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from 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.

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(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

7. The above guidelines have been followed by the Government of Tamil Nadu in GO.Ms.No.286 dated 28.08.2018 (Finance and Pension Department).

8. In the light of the aforesaid Judgement, the amount which has been paid to the petitioner 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 2 months from the date of receipt of a copy of this order.

9. Accordingly, the Writ Petition is disposed of directing refund of the amounts recovered and with reference to the other relief pertaining to refixation the petitioner is directed to give a representation on such



representation been made, the same shall be considered within a period of two months after affording an opportunity to the petitioner to submit his objections to the re-fixation. Consequently, the connected miscellaneous petition is closed. No costs.

07-08-2026

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

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To

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