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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. 43349 of 2025

AND

WP NO. 43360 OF 2025

WP No. 43349 of 2025

Raguraman

..Petitioner(s)

Vs

1. The Registrar General
High Court, Madras- 104.
2. The Principal District Judge
Krishnagiri, Krishangiri District.
3. The Sub- Judge
Uthangarai, Krishangiri District.
4. The District Treasury Officer
Krishangiri District.

..Respondent(s)

WP No. 43360 of 2025

S.Seyed Sha Mohinudeen

..Petitioner(s)

Vs

1. The Registrar General
High Court, Madras- 104.
2. The Principal District Judge
Krishnagiri, Krishangiri District.
3. The District Treasury Officer
Krishangiri District.

..Respondent(s)

**WP No. 43349 of 2025**

To call for the records in connection with proceedings of R.O.C. 16/2023 dated 26.05.2023 of 3rd Respondent ordering recovery from the petitioners salary totally Rs.1,25,136/- in 60 monthly installments at Rs.2086/- each from the petitioners salary from June 2023 and consequently direct the respondents to return the amount if any, already deducted from the petitioner.

WP No. 43360 of 2025

To call for the records in connection with the proceedings of R.O.C.No.NIL/ 2023 dated 00.03.2023 and quash the same of 2nd respondent ordering recovery from the petitioner salary totally Rs.6,29,420 /- out of it Rs.3,94,813 /- in 36 monthly installments at Rs.5000/- each from petitioner salary from April 2023, and the balance amount of Rs.2,14,813 /- is ordered to be recovered from petitioner D.C.R.G. and Consequently direct the respondents to return the amount if any, already deducted from the petitioner

In both Writ Petitions

For Petitioner(s): Mr.K.Thiruvengadam

For Respondent(s): Mr.C.R.Malarvannan for R1-3
No appearance for R4

Common Order

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

Writ on hand has been instituted to set aside the impugned proceedings in R.O.C. No.16/2023 dated 26.05.2023 passed by 3rd respondent in W.P. No. 43349 of 2025, and R.O.C. No. NIL/2023 dated 00.03.2023 passed by 2nd respondent in W.P. No. 43360 of 2025 for recovery of excess pay and allowances from petitioners and direct the respondents to refund the recovered amount and pass suitable orders.



2. The writ petitioner in W.P. No. 43349 of 2025 is presently working as Senior Bailiff. While he was working as Night Watchman, he was transferred to the post of Office Assistant, for which he was sanctioned one promotional increment. The writ petitioner was informed through impugned proceeding in R.O.C. No.16/2023 dated 26.05.2023, that pursuant to the finding of internal audit wing of the High Court, the grant of sanction of one promotional increment on the transfer from the post of Night Watchman to the post of Office Assistant was held inadmissible, as Class IV Employees may be appointed to Class III posts only by way of transfer of service and not by promotion, even though the scale of pay for the above posts are identical. Based on the audit objection, the pay was revised accordingly, and excess pay and allowances paid to the petitioner was sought to be recovered from his salary.

3. The writ petitioner in W.P. No. 43360 of 2025 was informed through impugned proceeding in R.O.C. No. NIL/2023 dated 00.03.2023, that over payment of salary from 29.08.2003 till 30.06.2022 is to be recovered, wherein the recovery is waived till 30.08.2017, but the excess payment from 31.08.2017 till date was ordered to be recovered from his salary from April 2023 and later from his DCRG as he is to be retired from service on superannuation on 31.03.2026.

4. 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.

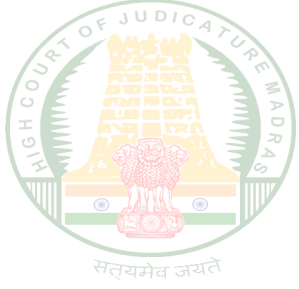
5. However, the respondents are unable to establish that there was a misrepresentation on the part of the employee during fixation of pay. It is an error committed by the Establishment for which the petitioners cannot be penalised after a lapse of many years. Recovery of excess salary at this length of time would result in extreme hardship to the employee.

6. 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

¹ 2015 4 SCC 334



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Class III and Class IV service (or Group C and Group D service).

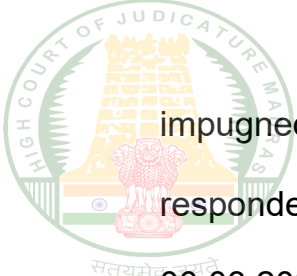
(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(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.

7. 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 orders is directed to be re-paid to the petitioners within a period of 12 weeks from the date of receipt of a copy of this order. Accordingly, the



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impugned proceedings in R.O.C. No.16/2023 dated 26.05.2023 passed by 3rd respondent in W.P. No. 43349 of 2025 and R.O.C. No. NIL/2023 dated 00.03.2023 passed by 2nd respondent in W.P. No. 43360 of 2025 are set aside, with reference to the recovery of excess salary alone.

8. Accordingly, the Writ Petitions stand partly allowed. Consequently, the connected Miscellaneous Petitions, if any are closed. No costs.

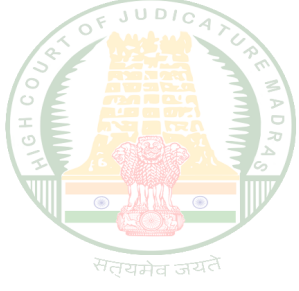
(S.M.S.,J.) (N.S.,J.)
09-07-2026

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

GD

To

1. The Registrar General
High Court, Madras- 104.
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3. The Sub- Judge
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**S.M.SUBRAMANIAM J.
AND
N.SENTHILKUMAR J.**

GD

**WP No. 43349 of 2025
AND
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09-07-2026