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M IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-06-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP Nos.30949 to 30956 of 2024, 30962 & 30963 of 2024

and

**WMP Nos. 33538, 33539, 33541 to 33543, 33545 to 33548, 33550 to 33557,
33569 to 33571, 33573**

W.P.No.30949 of 2024

K.Gunasekaran
S/o Kuppusamy
No.3/734, Avvaiyanagar,
Collectrate, Thadangam
Dharmapuri District 636 705

..Petitioner(s)

Vs

1. The Registrar General
High Court of Madras, High Court Campus,
Chennai 600 104
2. The Principal Secretary To Government
Home (Court V) Department, Fort Saint
George, Chennai 9
3. The Principal District Judge, Dharmapuri
4. The Principal Accountant General (A and E)
AG's Office (Audit) Complex, Anna Salai,
Roast Revor Garden, Teynampet,
Chennai 600 018
5. The District Treasury Officer, Dharmapuri
6. The District Munisif Cum Judicial Magistrate
Court, Penagaram District

..Respondent(s)



Prayer in W.P.No.30949 of 2024: Petition filed under Article 226 of the Constitution of India to call for the records of the 3rd respondent in connection with proceedings No.6676/2022 dated 31.10.2022 and quash the same and consequently direct the respondents to continue to pay at the existing fixation of pay and not to recovering the alleged excess amount paid to the petitioner.

For Petitioner(s):

Mr.M.Selvam
(in all the WPs)

For Respondent(s):

Mr.K.Umesh Rao,
(for R1, R3, R6 in WP.No.30949 of 2024
for R1 & R3 in WP.No.30950 of 2024
for R1, R3 & R4 in WP.No.30951 of 2024
for R1 & R3 in WP.No.30952 to 30954 of 2024
for R1, R3 & R4 in WP.No.30955 of 2024
for R1 & R3 in WP.No.30956, 30962 of 2024
for R1, R3 & R4 in WP.No.30963 of 2024)

No Appearance

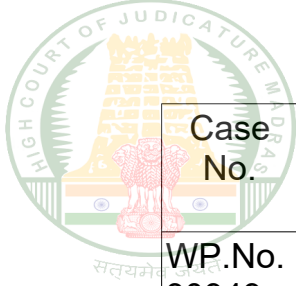
(for R2 & R4 in WP.No.30949 of 2024
for R2 & R3 in WP.No.30950 of 2024
for R2, R5 & R6 in WP.No.30951 of 2024
for R2, R4 & R5
in WP.No.30952 to 30954, 30956, 30962 of 2024
for R2, R5 & R6
in WP.No.30955 & 30963 of 2024)

COMMON ORDER

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

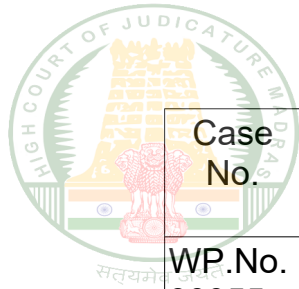
These Writ Petitions have been filed to set aside the impugned orders, in respect of recovery of excess pay and allowance from the petitioners.

2. The particulars of the petitioners and the respective impugned orders are as follows:



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Case No.	Impugned order	Petitioner's appointment with date	Petitioner's promoted post	Amount to be recovered	Recovery period
WP.No. 30949 of 2024	Proceedings No.6676/2022 dated 31.10.2022 by the 3 rd respondent	Night watchman on 20.08.2001	Office Assistant on 16.04.2007	Rs.1,24,825/-	01.07.2007 to 30.09.2022
WP.No. 30950 of 2024	Proceedings No.6671/2022 dated 31.10.2022 by the 3 rd respondent	Night watchman on 16.04.2007	Office Assistant on 19.11.2010	Rs.92,244/-	25.11.2014 to 31.05.2022
WP.No. 30951 of 2024	Proceedings No.2332/2022 dated 11.11.2022 by the 4 th respondent	Night watchman on 01.10.2010	Office Assistant on 09.12.2013	Rs.72,742/-	01.12.2021 to 31.10.2022
WP.No. 30952 of 2024	Proceedings No.5084/2022 dated 09.05.2022 by the 3 rd respondent	Sweeper cum Cleaner on 20.08.2001	Junior Assistant on 10.12.2009	Rs.98,752/-	06.07.2015 to 30.11.2021
WP.No. 30953 of 2024	Proceedings No.5084/2022 dated 09.05.2022 by the 3 rd respondent	Office Assistant on 10.11.2021	Xerox Operator on 30.07.2014	Rs.1,21,925/-	01.09.1998 to 30.09.2022
WP.No. 30954 of 2024	Proceedings No.5084/2022 dated 02.11.2022 by the 3 rd respondent	Masalchi on 21.02.2011	Office Assistant on 01.02.2014	Rs.74,258/-	01.02.2014 to 31.10.2022



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Case No.	Impugned order	Petitioner's appointment with date	Petitioner's promoted post	Amount to be recovered	Recovery period
WP.No. 30955 of 2024	Proceedings No.2388/2022 dated 28.10.2022 by the 4 th respondent	Night Watchman on 04.10.2010	Office Assistant on 05.12.2013	Rs.82,294/-	04.10.2010 to 31.05.2022
WP.No. 30956 of 2024	Proceedings No.7066/2022 dated 31.10.2022 by the 3 rd respondent	Night watchman on 17.04.2001	Office Assistant on 20.04.2007	Rs.1,14,488/-	01.07.2007 to 30.09.2022
WP.No. 30962 of 2024	Proceedings No.7062/2022 dated 31.10.2022 by the 3 rd respondent	Night watchman on 17.06.1998	Office Assistant on 17.06.2008	Rs.1,02,358/-	17.06.1998 to 01.04.2022
WP.No. 30963 of 2024	Proceedings No.40/2022 dated 28.10.2022 by the 4 th respondent	Junior Assistant on 19.04.2007	Record Clerk on 01.02.2014	Rs.1,36,296/-	01.04.2014 to 30.09.2022

After a long time, the internal audit wing of the High Court had found inadmissible promotional increment to the petitioners because of the wrong fixation of salary and ordered to recover the respective amounts, being excess pay and allowance paid to the petitioners. Aggrieved by the impugned orders, the petitioners filed the present writ petitions.

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 employees 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 employees.

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:

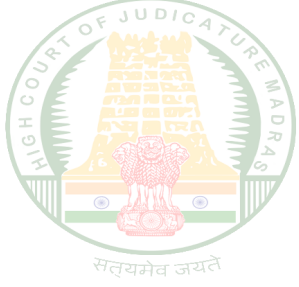
“18.It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, 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

¹2015 4 SCC 334



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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 recovered on account of the impugned orders, if any, 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 impugned orders are set aside, with reference to the recovery of excess salary alone.

7. Accordingly, these Writ Petitions stand partly allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

(S.M.S.,J.)

(N.S.,J.)

30-06-2026

Index: Yes

Speaking order

Neutral Citation: Yes/No

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Note: Registry is directed to type all the cause title.



To

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

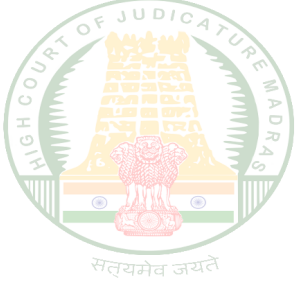
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4.The Principal Accountant General (A and E)
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5.The District Treasury Officer,
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6.The District Munisif Cum Judicial Magistrate Court,
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WP No. 30949 of 2024 and ba



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