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W.P.No.49237 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

W.P.No.49237 of 2025

and

W.M.P.No.55007 of 2025

K.Venkatesan
S/o.Krishnan

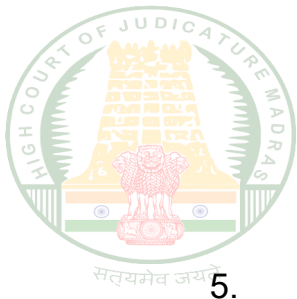
... Petitioner

* Petitioner's name was amended vide order dated 25.06.2026
in W.M.P.No.25768 of 2026 in W.P.No.49237 of 2025.

vs.

1. The Principal Secretary
Home – V (Courts)
Fort St.George
Chennai.
2. The Registrar General
High Court of Madras
Chennai-600 104.
3. The Principal District Munsif
Kallakurichi.
4. The District Munsif cum Judicial Magistrate
Thiruvennainallur
Villupuram District.

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5.
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The District Treasuries Office
Villupuram.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking a writ of Certiorarified Mandamus, to call for the records in proceedings D.No.1849 dated 28.11.2025 issued by the 4th respondent for recovery of excess pay and allowance of Rs.2,42,867/- from the petitioner and quash the same as arbitrary, illegal and violative of Articles 14 and 21 and consequently, direct the respondents not to recover any amount from the petitioner's salary and to refund any amount already recovered with all consequential benefits.

For Petitioner : Mr.S.Nedunchezhiyan
for Mr.K.Chozhan

For Respondents : Mr.M.Santhanaraman, for R2 to R4
R1 and R5 – No appearance

ORDER

[Made by **S. M. SUBRAMANIAM, J.,**]

The writ Petition has been filed challenging the order passed by the fourth respondent, recovering excess pay and allowances to the petitioner from 15.01.2010 to 31.10.2025.

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2. The petitioner was appointed as Copyist on 12.12.1996 in the Tamil Nadu Judicial Ministerial Service. He was promoted to the post of Junior Assistant on 15.03.2001 and subsequently, promoted to the post of Assistant on 01.08.2007 and then promoted as Bench Clerk III on 01.10.2010 in the District Munsif Court, Kallakurichi. Now he is presently working at Judicial Magistrate cum District Munsif Court, Thiruvannainallur, Villupuram District. The Principal District Munsif Court, Kallakurichi, vide proceedings dated 20.10.2011, sanctioned one increment to the petitioner as per G.O.Ms.No.234 dated 01.06.2009 and G.O.Ms.No.450 dated 10.02.2011. The second respondent, after a long time issued an Audit Report stating that there was an inadmissible sanction of one increment to the petitioner for promotion from the post of Assistant to Bench Clerk Grade-III. Hence, the excess pay and allowances on pay fixation for the period from 15.01.2010 to 31.10.2025 amounting to Rs.2,42,867/- may also be worked out and to be recovered. Aggrieved by the order of the 4th Respondent, the petitioner filed the present writ petition.

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

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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:

¹2015 4 SCC 334



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(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 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, if any already recovered on account of the impugned order is directed to be re-paid to the



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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 Petition stands partly allowed. No costs.

Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) (R.S.V.,J.)
25.06.2026

Index : Yes

Neutral Citation : Yes / No

Speaking order / Non-speaking order

mk

To

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**S. M. SUBRAMANIAM, J.,
and
R.SAKTHIVEL, J.,**

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