

W.P.(MD)No.7173 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2026

CORAM

THE HONOURABLE **Mr.JUSTICE MUMMINENI SUDHEER KUMAR**

W.P.(MD)No.7173 of 2024

Packiyarajan.P,
S/o.Packiyanathan,
Junior Assistant (Rtd.),
S/o.Packiyanathan,
TSP XI Battalion, Rajapalayam,
Door No. 2/26, Malayadi Patti,
Kovilpatti main Road, Karisathan Post,
Thiruvengadam Taluk, Tenkasi District.

...Petitioner

vs.

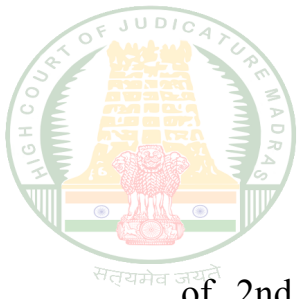
1. The Principal Accountant General (A and E),
Office of the Principal Accountant General (A and E),
Tamilnadu,
361, Anna Salai,
Chennai - 600 018.

2. The Commandant,
Office of the Commandant,
TSP XI Battalion, Rajapalayam,
Virudhunagar District.

3. The Sub Treasury Officer,
Office of the Sub Treasury,
Rajapalayam,
Virudhunagar District.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records on the file



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of 2nd respondent relating to the order issued in C.No.B2/2155/2023 (B.O.No.638/2023) dated 19.10.2023 and quash the same and consequently direct the respondents to return the deduction amount of Rs.77,578/- to the petitioner based on considering his representation dated 28.11.2023.

For Petitioner : Mr.V.Muthuvelan

For Respondents : Mrs.K.Porkodi, Government Pleader
for R2 and R3
Mrs.S.Mahalakshmi, Standing Counsel
for R1

ORDER

This Writ Petition has been filed by the petitioner seeking a Writ of Certiorarified Mandamus calling for the records on the file of the second respondent relating to the order issued in C.No.B2/2155/2023 (B.O.No. 638/2023) dated 19.10.2023, to quash the same and, consequently, direct the respondents to refund the deduction amount of Rs.77,578/- to the petitioner by considering his representation dated 28.11.2023.

2. The petitioner, having been appointed as a Cook in the second respondent Battalion in the year 1986, was subsequently promoted to the post of Junior Assistant and retired from service on attaining the age of superannuation on 31.05.2023. Thereafter, while processing the petitioner's pension papers, it was found that the increment awarded to the petitioner in

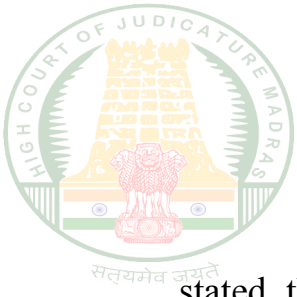


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the month of April 2011 was contrary to his actual entitlement, which was only from the month of October 2011. Accordingly, the same was rectified while issuing the Pension Payment Order and releasing the terminal benefits of the petitioner. Consequent upon such refixation, it was found that the petitioner had been paid an excess amount of Rs.77,578/-, and the said amount was directed to be recovered from the DCRG amount payable to the petitioner through the impugned proceedings dated 19.10.2023. Aggrieved by the said proceedings, the petitioner has filed the present Writ Petition contending that the said amount cannot be recovered from his terminal benefits in the light of the law laid down by the Hon'ble Supreme Court in *State of Punjab and Others vs. Rafiq Masih (White Washer)* reported in AIR 2015 SC 696.

3. In response to the notice, the second respondent has filed a detailed counter contending that the petitioner, who was working as a Junior Assistant in the second respondent Office, was fully aware of his actual entitlement to the release of the increment, but had erroneously made a claim for release of the increment from the month of April 2011 and thereby drew an excess amount of Rs.77,578/-. It is further stated that the said excess payment made in favour of the petitioner came to light during the audit objection raised while processing the petitioner's pension proposal. It is also



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stated that the petitioner had given an undertaking while submitting his pension proposal authorising the respondents to recover any excess payment and, therefore, for that reason also, the petitioner is not entitled to any relief in the present Writ Petition.

4. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

5. Admittedly, the alleged excess payment of Rs.77,578/- had been paid from the month of April 2011. It is also not in dispute that the petitioner was initially appointed as a Cook in the second respondent Office and was subsequently promoted from time to time, ultimately reaching the post of Junior Assistant, from which he retired from service. The proposed recovery has been sought to be effected only through the impugned proceedings dated 19.10.2023, that is, almost five months after the petitioner attained superannuation. The petitioner has not challenged the re-fixation of pay or the fixation of pension and other terminal benefits. The challenge made by the petitioner is confined only to the recovery of Rs.77,578/-. The issue relating to recovery of amounts paid in excess of the entitlement of an employee fell for consideration before the Hon'ble Apex Court in *White Washer's case*, wherein the Hon'ble Supreme Court laid down certain guidelines in



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paragraph No.12 of the judgment. Paragraph No.12 of the judgment reads as

follows:-

"12. 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 herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(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.”

6. As the petitioner had already retired from service on 31.05.2023 and the impugned proceedings directing recovery were issued only after the petitioner retired from service, that too from the DCRG amount, the case of the petitioner falls under Clause (ii) of paragraph No.12 of the judgment. In the light of the law laid down by the Hon'ble Supreme Court, the respondents have no authority to recover the said amount, that too after such a lapse of time.

7. In the light of the above, the impugned proceedings directing recovery of Rs.77,578/- are liable to be declared illegal, arbitrary and violative of Articles 15 and 21 of the Constitution of India. Accordingly, the impugned proceedings of the second respondent in C.No.B2/2155/2023 (B.O.No.638/2023) dated 19.10.2023 are hereby quashed. Consequently, the respondents 2 and 3 are directed to take all necessary steps to refund the amount of Rs.77,578/- to the petitioner within a period of eight (8) weeks



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from the date of receipt of a copy of this order. However, it is made clear that the petitioner shall not be entitled to claim any interest.

8. Accordingly, this Writ Petition is disposed of. No costs.

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Speaking / Non-speaking order

Index : Yes/No

NCC : Yes/No

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MUMMINENI SUDHEER KUMAR, J.

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