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W.P.No.26036

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 27.11.2023

CORAM:

**THE HON'BLE MR. JUSTICE K.KUMARESH BABU**

**W.P.No.26036 of 2009**  
**and M.P.No.2 of 2009**

- 1.N.Senthilkumar
- 2.M.Balasubramaniam
- 3.M.Poongodi
- 4.K.Velayutham
- 5.M.Muthusamy
- 6.M.Thangamuthu
- 7.S.Mayilsamy
- 8.N.Poongothai
- 9.C.Marisamy
- 10.Shanmugasundaram
- 11.K.Mythili
- 12.K.C.Ayyasamy
- 13.G.Nagarajan
- 14.S.Hemalatha
- 15.A.Selvi
- 16.K.Periasamy
- 17.N.Rajeswari
- 18.P.V.Ramakrishnan

...Petitioners

Vs.

- 1.The Government of Tamil Nadu,  
rep. by its Secretary,  
Rural Development Department,  
Fort St.George, Chennai – 600 009.
- 2.The District Collector,  
Erode District.



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3.The Block Development Officer,  
Perundurai Taluk,  
Erode District.

4.The President,  
Sullipalayam Panchayat,  
Erode District.

5.The President,  
Kallakulam Panchayat,  
Erode District.

6.The President,  
Ponmudi Panchayat,  
Erode District.

7.The President,  
Periyaveerasangili Panchayat,  
Erode District.

8.The President,  
Seenpuram Panchayat,  
Erode District.

9.The President,  
Thiruvachi Panchayat,  
Erode District.

10.The President,  
Madathupalayam Panchayat,  
Erode District.

11.The President,  
Sinna Veerasangili Panchayat,  
Erode District.

12.The President,  
Pandiampalayam Panchayat,  
Erode District.



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13.The President,  
Mullampatti Panchayat,  
Erode District.

14.The President,  
Periavilamalai Panchayat,  
Erode District.

15.The President,  
Polanayackenpalayam Panchayat,  
Erode District.

16.The President,  
Pattakaranpalayam Panchayat,  
Erode District.

17.The President,  
Thoranavalli Panchayat,  
Erode District.

18.The President,  
Karandipalayam Panchayat,  
Erode District.

19.The President,  
Nichampalayam Panchayat,  
Erode District.

20.The President,  
Karukkupalayam Panchayat,  
Erode District.

21.The President,  
Singanallur Panchayat,  
Erode District.

22.The President,  
Moongilpalayam Panchayat,  
Erode District.

... Respondents



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**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the order passed by the 3<sup>rd</sup> respondent in his proceedings No.Na.Ka.2522/09/A2 dated 01.12.2009, quash the same.

For Petitioners : Mr.M.Baskar

For Respondents : Mr.S.Ravichandran for R1 & R2  
Additional Government Pleader

R3 - No appearance

R4 to R22 – served – No appearance

### **ORDER**

The Writ Petition has been filed challenging the order of the third respondent dated 01.12.2009 directing recovery of excess pay that has been made to the respective petitioners.

2.The aforesaid *lis* is no longer *res integra*. The Division Bench of this Court in W.A.Nos.1666 & 1667 of 2009 had in fact permitted the respondents therein viz., the Tamil Nadu Panchayat Employees Association to challenge any order of recovery.



3.The learned Single Judge in W.P.Nos.11156 & 11158 of 2009 had set aside an order of recovery on the ground that there is a violation of principles of natural justice and had granted liberty to the respondent/Government to initiate recovery proceedings after compliance with the principles of natural justice. Similarly other learned Single Judge of this Court in W.P.(MD)Nos.19010 to 19018 of 2014 wherein the orders of recovery were challenged had passed the following order:

*“23.As far as the present Writ Petitions are concerned, admittedly, the writ petitioners are working as Panchayat Secretaries in a permanent sanctioned post in the regular time scale of pay. Thus, they are undoubtedly, not entitled to avail the benefit of Government Order issued in G.O.(Ms.)No.191, Finance (Pay Cell) Department, dated 29.04.1998. The Audit objection raised is inconsonance with the Government Order passed in G.O.(Ms.)No.191. Thus, the recovery impugned is in accord with the conditions stipulated in the Government Order as well as the objections raised by the Audit group. Thus, there is no infirmity as such in respect of impugned order. Accordingly, the following orders are passed:*

*(i) the relief as such sought for in these writ petition stand rejected;*

*(ii)the respondents are directed to fix the correct pay of the writ petitioners as applicable to their respective posts strictly in accordance with the Government Orders and the pay rules in force;*



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*(iii) the excess amount, which is to be considered as an unjust enrichment of taxpayers money is to be recovered from the writ petitioners by way of equal monthly installments to be fixed by the competent authorities/respondents;*

*(iv) the first respondent is directed to issue a consolidated instructions to all the District Collectors and other Subordinate officials to ensure that in the event of excess or erroneous payments are made to the employees, the officials, who all are responsible and accountable, must also face the disciplinary proceedings as well as the recovery as discussed in the judgment in the aforementioned paragraph. Such an instruction/circular is directed to be issued within a period of four weeks from the date of receipt of a copy of this order.*

*24. Accordingly, the Writ Petitions are disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.”*

4. The order impugned in this Writ Petition had also indicated that such a recovery can be made after issuing notice to the respective petitioners. It is also imperative that pursuant to the order impugned, the respective petitioners should have been issued individual notice of recovery. It is for the petitioners to substantiate their rights to retain such excess amount pursuant to such individual notice of recovery.



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5. In such view of the matter, I do not find any merit in the Writ Petition and accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No  
Speaking Order/Non-Speaking Order  
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To

1. The Secretary,  
Government of Tamil Nadu,  
Rural Development Department,  
Fort St. George, Chennai – 600 009.
2. The District Collector,  
Erode District.



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**K.KUMARESH BABU, J.**

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