



W.P.(MD).No.26787 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.26787 of 2024

and

W.M.P.(MD).Nos.22713 & 22714 of 2024

R.Saraswathi

... Petitioner

Vs

1.The Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.

*(1st Respondent name was amended as per order
dated 11.12.2024 passed in W.M.P.(MD).No.23917 of 2024)*

2.The Treasury Officer,
District Treasury,
Virudhunagar,
Virudhunagar District.

3.The Assistant Treasury Officer,
Sub-Treasury,
Sivakasi,
Virudhunagar District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records of the first and third respondent's proceedings Na.Ka.A3/5876/2023-2025 dated 25.05.2024 and Na.Ka.No.569694/A2/2024 dated 20.06.2024 and quash the same and consequently direct the third respondent not to effect further recovery and to refund the recovery already effected in the month of June 2024.



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For Petitioner : Mr.V.R.G.Mohan

For Respondents : Mr.A.Baskaran
Additional Government Pleader

ORDER

The instant Writ Petition has been filed by the wife of deceased Village Administrative Officer, challenging the order of recovery passed by the Revenue Divisional Officer, on the ground that excess House Rent Allowance was paid to the petitioner's husband, while he was in service.

2. A perusal of the impugned order reveals that at the instance of the petitioner's husband, the respective Tahsildar has disbursed the excess House Rent Allowance to the petitioner's husband and the excess amount is sought to be recovered. In the impugned order, there is no reference about the period during which the alleged excess House Rent Allowance has been disbursed to him. The impugned order is also vague with regard to the applicability of the relevant Government Orders for payment of House Rent Allowance to the Village Administrative Officers.



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3. The husband of the petitioner had retired 19 years prior to the passing of the impugned order. There is no allegation in the impugned order that the excess House Rent Allowance was paid to the petitioner's husband due to the mis-representation made by him. Since no Government Orders have been referred to in the impugned order relating to the disbursement of House Rent Allowance, this Court is not in a position to arrive at a finding whether at all any excess House Rent Allowance was paid to the writ petitioner.

4. In such circumstances, petitioner's husband, having retired 19 years back and the recovery is sought to be made after his retirement. Moreover, petitioner's husband was died on 15.01.2020. In such circumstances, this Court is of the considered opinion that the judgment of the Hon'ble Supreme Court reported in *(2015) 4 SCC 334* in the case of *(State of Punjab and other Vs. Rafiq (white washer) and others)*, is squarely applicable to the facts of the present case.

5. This Hon'ble Court, in a batch of 68 cases, by way of separate orders on 11.06.2024, has allowed similar writ petitions with a direction to refund the amount, if any already recovered.



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6. Considering the above said facts, the order impugned in this writ petition is set aside and in case, if any recovery has already been made, the respondents herein are directed to refund the same, within a period of twelve(12) weeks from the date of receipt of a copy of this order.

7. With the above said observations, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

11.12.2024
(1/2)

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To

1.The Revenue Divisional Officer,
Sivakasi,
Virudhunagar District.

2.The Treasury Officer,
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Virudhunagar,
Virudhunagar District.

3.The Assistant Treasury Officer,
Sub-Treasury,
Sivakasi,
Virudhunagar District.



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R.VIJAYAKUMAR, J.

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