



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 11.03.2025

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

W.P.No.2213 of 2024

Devi Ranjani

.. Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Housing Board E&C Market Road,
Koyambedu, Chennai – 107.

2.The Secretary and Personnel officer,
Tamil Nadu Housing Board,
E&C Market Road,
Koyambedu, Chennai – 107.

3.The Deputy Chief Accounts Officer,
Tamil Nadu Housing Board,
E&C Market Road,
Koyambedu, Chennai – 107.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents in connection with the impugned order passed by the 3rd respondent in board letter No.Pension.4/4803/2021 dated 19.04.2021 and the subsequent order passed by the 2nd respondent in Letter No.PT1/15135/2019 dated 10.01.2024 and to quash the same and further direct the respondents to refund the amount recovered from the DCRG amount with appropriate interest within a reasonable time.



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For Petitioner .. Mr.S.Sivakumar

For Respondents .. Mr.V.Logesh, Standing Counsel

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records with respect to an order passed by the 3rd respondent, Deputy Chief Accounts Officer, Tamil Nadu Housing Board in board letter No.Pension.4/4803/2021 dated 19.04.2021 and the order passed by the 2nd respondent dated 10.01.2024 and to quash the same.

2.The late husband of the petitioner was working as Executive Engineer and Administrative Officer of Tamil Nadu Housing Board, Chennai. He retired on attaining the age of superannuation of 31.05.1998. Subsequently, he died on 23.11.2005. He was not able to get the retirement benefits during his life time. Thereafter, the petitioner made efforts and finally, after a delay of 23 years, the retirement benefits were settled. However, they were not settled in entirety.



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3. In the counter affidavit filed, it had been stated that a sum of Rs.9,05,813/- had been paid to the petitioner. But however, that is not the entire amount which should have been paid to the late husband of the petitioner.

4. In the impugned order which is questioned and challenged in the present writ petition, it had been contended that excess amount of Rs.2,24,606/- had been paid to the petitioner under the Provisional Family Pension and had been deducted from the pensionary benefits.

5. It must be kept in mind that the Hon'ble Supreme Court in the judgment reported in **(2015) 4 SCC 334, State of Punjab and others v. Rafiq Masih (White Washer)** had given directions, as to how recovery could be made from the public servants and care should be taken that it does not lead to hardship for the public servant. It had been stated that after a period of five years, there cannot be any recovery effected. It had been further stated that notice must be issued before recovery is effected. It is also stated that for Group C and D public servants, caution must be



exercised by the authorities before any order is passed.

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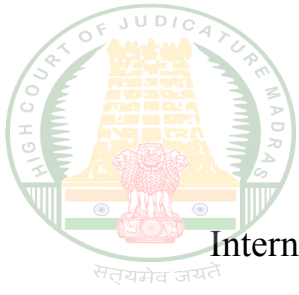
6. In the instant case, the petitioner is a widow fighting for the rights of her late husband who is entitled for the retirement benefits for the service rendered by him to the respondents. He retired from service on 31.05.1998 and he died on 23.11.2005. During that period, he was not able to get the retirement benefits. When the petitioner started taking efforts to get the benefits, she found that the respondents had deducted a sum of Rs.2,24,606/-. There is no justification for such recovery after such a long period, which is certainly by any mathematical calculation more than five years. It is to be noted that the respondents had already deducted the amount even without issuing any notice to the petitioner.

7. A direction is issued to the respondents that the said amount of Rs.2,24,606/- has to be repaid to the petitioner herein with interest as applicable under the Gratuity Act, on and from the date of retirement of the late husband of the petitioner till the date of actual disbursement.

8. With the above observations, this Writ Petition stands disposed of.
No costs.

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Index: Yes/No



Internet: Yes/No

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C.V.KARTHIKEYAN,J.

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