



WEB COPY

W.A.No.240 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

W.A.No.240 of 2022
and CMP.No.1750 of 2022

1.State of Tamil nadu,
Rep. By its Principal Secretary to Government,
Finance Department,
Secretariat,
Chennai-600 009

2.State of Tamil Nadu,
Rep. By its Secretary to Government,
P & AR Department,
Secretariat, Chennai-600 009

3.Government Data Centre,
Rep. By its Commissioner,
Chennai-600 025

4.The Administrative Officer,
Government Data Centre,
Chennai-600 025

... Appellants

Vs.

A.Naseema Bee

... Respondent

PRAYER: Appeal is filed under Clause 15 of the Letters Patent, praying to
set aside the order dated 29.04.2021 made in W.P.No.8440 of 2016.



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For Appellants : Mr.G.Ameedius
Government Advcoate

For Respondent : Ms.N.Kavitha Rameshwar

JUDGMENT

(Judgment of this Court was delivered by M.S.RAMESH.J)

This Writ Appeal has been filed to set aside the order dated 29.04.2021 made in W.P.No.8440 of 2016.

2. When the respondent herein claimed that she and her junior, though belonged to the same cadre and post, and also been promoted in the same cadre, her junior was drawing a higher scale of pay. Thus, when she sought for stepping up her pay, on par with her junior, the appellants herein, through an order dated 14.10.2014, had allowed the claim and stepped up her pay on par with her junior. However, when the order was sent to the Government for ratification, the Government had opined that she was ineligible to claim such stepping up of the pay scale, through their order dated 23.03.2015 and issued the consequential order dated 18.01.2016, rejecting the respondent's claim. Through another order dated 24.02.2016, recovery of the alleged excess payments were also sought to be made from her.

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3. When the respondent had challenged both the orders dated 18.01.2016 and 24.02.2016 before the Writ Court, the learned Single Judge allowed the Writ Petition in W.P.No.8440 of 2016 dated 29.04.2021, which order is assailed in this Writ Appeal.

4. The learned Government Advocate for the appellants submitted that though the respondent and her junior were promoted to the post of Assistant, she was not eligible for 5% personal pay for the said post, as per G.O.Ms.No.664, Finance (PC) Department, dated 24.08.1992, and that she did not comply with the criteria fixed for grant of 5% of personal pay and therefore, there is no infirmity in the orders impugned before the Writ Court.

5. Per contra, the learned counsel appearing for the respondent placed reliance on the decision of the Hon'ble Supreme Court in the case of *State of Punjab vs. Rafiq Masih*, reported in [(2015) 4 SCC 334] and submitted that the respondent belonged to group 'C' cadre and had also retired from service on 31.01.2019. In view of her cadre, the recovery of the alleged excess payment was impermissible in law.



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6. The Hon'ble Supreme Court, in the case of **White Washer** (*supra*), had set out certain circumstances, whereby recovery of excess payments made to the Government employees, not owing to their fault, is impermissible in law. One among the circumstances is the excess payment made to Group 'C' and Group 'D' employees.

7. This apart, in a subsequent decision in the case of **Jagdish Prasad Singh vs. State of Bihar and others**, reported in [(2024) SCC OnLine SC 1909], the Hon'ble Supreme Court, after referring to the decision in **White Washer's case**, had further held that any reduction in the pay scale, owing to the excess payment and the consequential recovery, would be impermissible. The relevant portion of the order reads as follows:

“The learned Single Judge as well as the Division Bench of the High Court of Patna also seem to have fallen in the same error. In addition thereto, we are of the view that any step of reduction in the pay scale and recovery from a Government employee would tantamount to a punitive action because the same has drastic civil as well as evil consequences.

Thus, no such action could have been taken against the appellant, more particularly, because he had been promoted as an ADSO, while drawing the pay scale of



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Rs.6500-10500 applicable to the post, way back on 10th March, 1991 and had also superannuated eight years ago before the recovery notice dated 15th April, 2009 was issued. The impugned action directing reduction of pay scale and recovery of the excess amount is grossly arbitrary and illegal and also suffers from the vice of non-adherence to the principles of natural justice and hence, the same cannot be sustained.”

8. The aforesaid extract is self explanatory. Admittedly, in this case, the alleged excess payment made to the respondent herein was not owing to any misrepresentation or any other reason which can be attributed to her. On the other hand, the appellants themselves had acceded to the request of the respondent to rectify the pay anomaly between her and her junior, through order dated 14.10.2014.

9. By applying the ratio laid down by the Hon’ble Supreme Court in the aforesaid decisions, any reduction of pay scale or consequential recovery, would be impermissible. The learned Single Judge had rightly appreciated these aspects and had allowed the Writ Petition.



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M.S.RAMESH, J.
and
R.SAKTHIVEL, J.

Anu

10. We do not find any ground to interfere with the well considered order of the learned Single Judge and accordingly, the Writ Appeal stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[M.S.R., J] [R.S.V.,J]

18.11.2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

Anu

To

The Presiding Officer,
Second Additional Labour
Court, Chennai-600 104.

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