



WEB COPY

W.P.No.5558 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

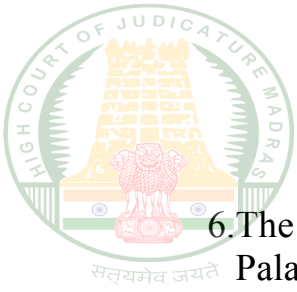
W.P.No. 5558 of 2025
and
W.M.P.Nos.6135 & 6136 of 2025

Arumugam Vadivel

...Petitioner

Vs.

- 1.The Registrar General,
High Court of Madras,
High Court Campus,
Chennai - 600 104.
- 2.The Principal Secretary to Government,
Home (Court V) Department,
Fort St. George,
Chennai - 9.
- 3.The Principal District Court,
Dharmapuri.
- 4.The Principal Accountant General (A and E),
AG's Office (Audit) Complex,
Anna Salai, Roast Revor Garden,
Teynampet, Chennai - 600 018.
- 5.The District Treasury Officer,
Dharmapuri.



6. The District Munsif Court,
Palacode.

...Respondents

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Prayer: Writ Petition filed under 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the record of the 6th respondent in connection with the proceedings of ROC.No.1304/2023 dated 18.12.2023 and quash the same and direct the respondents to return the amount that had been recovered from the petitioner.

For Petitioner : Mr.A.Sakthivel

For Respondents : Mr.M.Fakkir Mohideen for RR1, 3 & 6

Mr.S.John J.Raja Singh,

Additional Government Pleader for RR2, 4 & 5

ORDER

(Order of the Court was made by R.SUBRAMANIAN, J.)

Challenge is to the order dated 18.12.2023, in and by which, the District Munsif, Palacode had directed recovery of a sum of Rs.1,53,876/- from the petitioner in 7 monthly installments and re-fixing the basic pay from Rs.43,400/- to Rs.42,100/-. Recovery was ordered based on the fact that an increment granted as per recommendation of Justice Shetty Commission to the new entrants is incorrect, since the individual is



promoted from the post of Junior Bailiff to Senior Bailiff after 01.01.2006.

In and by the very same proceedings, the salary disbursement Officer had also re-fixed the salary of the petitioner.

2. The main ground of challenge to the order is that recovery cannot be made. The question of recovery is covered by the judgment of the Hon'ble Supreme Court in *State of Punjab and Others Vs. Rafiq Masih (White Washer's case)* reported in *AIR 2015 SC 696*. A Division Bench of this Court in *P.Ponnusamy Vs. The Registrar General, High Court of Madras* made in *W.P.No.8952 etc., batch of 2023* dated *04.03.2024* has, after referring to the relevant precedents on the point held that recovery cannot be made but, the Division Bench in the said judgment has also pointed out, re-fixation that has been done in accordance with pay rules shall be sustained. The said judgment, in our opinion, squarely covers the issue raised in this writ petition also.

3. In view of the same, this Writ Petition is **partly allowed**, quashing the order to the extent that it directs the recovery of the excess amount paid to the petitioner. The re-fixation done is sustained. If any recovery had



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been made, the amount recovered alone shall be repaid to the petitioner

within a period of eight weeks from the date of receipt of a copy of this

order. No costs. Consequently, connected miscellaneous petitions are

closed.

(R.S.M., J.) (G.A.M., J.)
19.02.2025

dsa

Index : No

Neutral Citation : No

Speaking order



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To:

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R.SUBRAMANIAN, J.
and
G.ARUL MURUGAN, J.

dsa

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