



W.P. Nos. 1889 to 1891 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.02.2025

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CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. Nos. 1889 to 1891 of 2015

and

M.P. Nos. 1, 1 & 1 of 2015

P. Jayaprakash Narayanan,
Village Administrative Officer,
(Retired from service),
Salai Pudur, Kulesekara puram post,
Malaudy Via, Kanyakumari District.

...Petitioner
in W.P. No. 1889/2015

R.Gunasekaran,
Village Administrative Officer,
(Under Suspension),
No.517, Village Highways,
Sholinganallur, Chennai – 600 119.

...Petitioner
in W.P. No. 1890/2015

I. Gandeegan,
Village Administrative Officer,
(Retired from Service),
No.10, 15th street, J.B. Estate,
Avadi, Chennai – 54.

...Petitioner
in W.P. No. 1891/2015

Versus

The Collector,
Tiruvallur District.

...Respondent
in all the W.Ps



W.P. Nos. 1889 to 1891 of 20..

Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari, to call for the records connected with the proceedings issued in Na.Ka.A1/14598/2014 dated 10.11.2014 passed by the respondent herein and quash the same.

For Petitioner : Mr. S. Ilamvaludhi (in all W.Ps)
For Respondent : Mr. G. Nanmaran, (in all W.Ps)
Special Government Pleader

COMMON ORDER

These Writ Petitions are being disposed of by way of this common order.

2. In these Writ Petitions, the respective petitioners have challenged the respective impugned orders passed by the Respondent on 10.11.2014 seeking to recover the salary paid to the petitioners for period between 01.12.2006 to 09.04.2007.

3. These Petitioners have retired from service on the following dates viz., 31.05.2011, 30.06.2014 and 30.05.2010 respectively.



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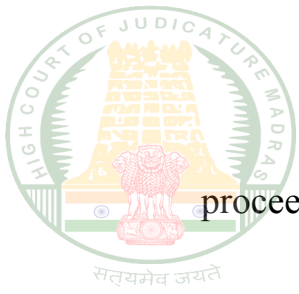
4. The details of the Writ Petitioners in these Writ Petitions are as follows: -

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<i>S.No.</i>	<i>W.P. Nos.</i>	<i>Name of the Writ Petitioners</i>	<i>Date of Retirement</i>
1	1889 of 2015	P. Jayaprakash Narayanan	31.05.2011
2	1890 of 2015	R. Gunasekaran	30.06.2014
3	1891 of 2015	I. Gandeegan	30.05.2010

5. The factual background of the case is that these petitioners were transferred to other place and vide Transfer Order dated 01.12.2006. Therefore, these petitioners had challenged the aforesaid Transfer Orders before this Court in W.P. No. 28401 of 2006. Initially, the Court had granted a status quo order on 07.12.2006. However, the W.P. No. 28401 of 2006 was subsequently dismissed on 04.01.2007. Thus, these petitioners were subsequently relived and transferred to the place where they had been transferred the aforesaid Transfer Order dated 01.12.2006.

6. The Tahsildar had also recommended vide proceedings in Na.Ka.No.4901-2006-अ1, that these petitioners had worked in the erstwhile place during the disputed period in the impugned order dated 10.11.2014 i.e., from 01.12.2006 to 09.04.2009. Despite the same, the 2nd Respondent



proceeded to pass the impugned order.

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7. Learned counsel for the Petitioners submits that since these Petitioners have already retired from service, recovery cannot be made against them in terms of the judgment of the Hon'ble Supreme Court in ***State of Punjab and Others v. Rafiq Masih, AIR 2015 SC 696.***

8. Learned counsel for the Respondent submits that the said decision will not apply to the facts of the case, as these Petitioners had unsuccessfully challenged the Transfer Order dated 01.12.2006 which was rightly dismissed by this Court vide Order dated 04.01.2007 in W.P. No. 28401 of 2006. Hence, it is stated that recovery has to be made from these petitioners.

9. I have considered the arguments advanced by the learned counsel for the Petitioners and the Respondent and have also perused the materials placed before this Court. This Court is of the view that the impugned orders are unsustainable in the light of the decision of the Supreme Court in ***State of Punjab and Others v. Rafiq Masih, AIR 2015 SC 696.*** As far as



recovery of excess salary from government employees involved herein is no

longer res integra and is squarely covered by the above decision of the

Hon'ble Supreme Court. In this connection, reference is made to Paragraphs

12 and 13 of the judgment in the aforesaid case, which reads as follows: -

“12. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

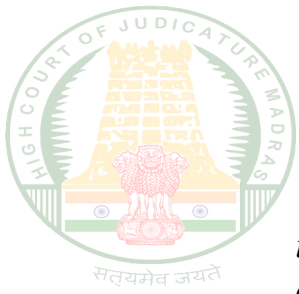
(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.



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13. We are informed by the learned counsel representing the appellant-State of Punjab, that all the cases in this bunch of appeals, would undisputedly fall within the first four categories delineated hereinabove. In the appeals referred to above, therefore, the impugned orders passed by the High Court of Punjab and Haryana (quashing the order of recovery), shall be deemed to have been upheld, for the reasons recorded above.”

10. It is evident from a reading of Paragraph 12 (ii) that recovery cannot be made from the Petitioners, who had retired from service on the dates mentioned above.

11. In view thereof, these writ petitions deserve to be allowed and accordingly, these Writ Petitions are allowed. Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes/No
Neutral Citation : Yes/No
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W.P. Nos. 1889 to 1891 of 2015

C.SARAVANAN, J.

AT

To
The Collector,
Tiruvallur District.

W.P. Nos. 1889 to 1891 of 2015 and
M.P. Nos. 1, 1 & 1 of 2015

07.02.2025