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W.P.No.12743 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2025

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.P.No.12743 of 2025
and
W.M.P.No.14316 of 2025

S.Gangadharan

... Petitioner

-Vs-

1. The Director of Public Health and Preventive Medicine,
Chennai – 600 006.
2. The Director of Medical Education and Research,
Chennai – 600 010.
3. The Accountant General (A & E).
Anna Salai,
Chennai – 600 008.
4. The Pay and Accounts Officer (East),
Chennai – 600 008.
5. The Director and Professor,
Institute of Child Health Hospital For Children,
Chennai – 600 008.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorari, calling for the concerned records



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relating to the order Proc.Ref.No.01398/E4/2024 dated 08.04.2024 and Order in Proc.Ref.No.01398/E4/2024 dated 27.05.2024 passed by the 3rd Respondent and quash the same and consequently direct the 3rd Respondent to refund the recovered amount of Rs.6,67,974/- to the petitioner.

For Petitioner : Mr.M.Gnanasekar
For Respondents : Mr.K.Tippu Sultan,
Government Advocate (for R1,R2,R4&R5)
Mr.P.Mano Rajan,
Standing Counsel (for R3)

ORDER

The instant writ petition has been filed challenging the impugned orders dated 08.04.2024 and 27.05.2024, by and in which the fifth respondent has directed the recovery of a sum of Rs. 6,67,974/- from the petitioner on account of excess pay since 1998.

2. The learned counsel for the petitioner would submit that the petitioner retired from service on 30.04.2024, and the impugned orders of recovery was passed subsequent to the retirement, viz., 08.04.2024 and 27.05.2024, and the alleged excess pay was made with effect from 01.09.1998. He would further contend that the petitioner is a Group C



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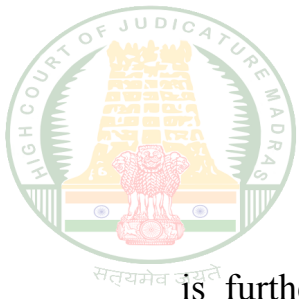
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employee. Therefore, this case squarely falls under the judgement of the Hon'ble Supreme Court of India in *State of Punjab and Others vs. Rafiq Masih (White Washer) and Others*, reported in *[(2015) 4 SCC 334]*. Though the learned counsel for the petitioner seriously objects to the recovery, on instructions from his client, he has submitted that he has no objection in respect of re-fixation.

3. Per contra, the learned Government Advocate for the first, second, fourth and fifth respondents would vehemently contend that whenever any pay was re-fixed, the employees had given an undertaking to repay the same as and when excess was found to be deducted. Apart from that, there is a long delay in challenging the impugned order. Hence, he prayed to dismiss the instant Writ Petition.

4. I have given my anxious consideration to the submissions made on either side.

5. It is an admitted fact that the impugned orders dated 08.04.2024 and 27.05.2024, was passed subsequent to the retirement of the petitioner, and it



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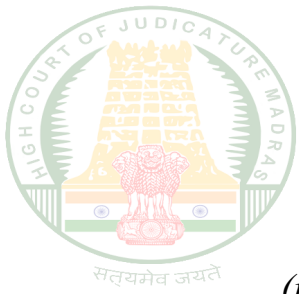
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is further admitted that the amount alleged to have been paid in excess commenced in the year 1998, which is beyond the period of five years. Though the learned counsel for the respondents would strongly object to this Writ Petition, it is not their case that the excess payment was made due to the misrepresentation by the petitioner, and apart from that, it is further admitted that the petitioner is a Group C employee.

6. In such view of the submission, as rightly contended by the learned counsel for the petitioner, the facts of this case is squarely covered by the Judgment of ***State of Punjab and Others vs. Rafiq Masih (White Washer) and Others*** reported in ***[(2015) 4 SCC 334]***. The relevant paragraph is paragraph 18, which reads as follows:-

“18. 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 hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

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



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(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the 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.

7. As already observed, if any recovery is ordered after the retirement of the petitioner, that too for payments that have been made since 1998, would definitely cause great hardship to the petitioner and also impinge upon his right to life. Hence, this Court is of the firm view that the impugned orders are liable to be quashed.

8. In view of the matter, the impugned orders dated 08.04.2024 and



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27.05.2024, are hereby quashed to the extent of recovery. However, the re-fixation made by the respondents is confirmed. It is made clear that if the recovery amount has already been recovered by the respondents, the respondents are directed to repay the same without interest within a period of three months from the date of receipt of a copy of this order.

9. In the result, this Writ Petition is partly allowed as indicated above. Consequently, the connected Miscellaneous Petition is closed. No costs.

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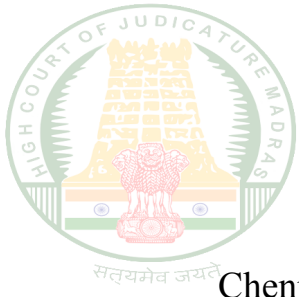
Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No

To

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C.KUMARAPPAN, J.

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