



WEB COPY



W.P.No.12310 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

Writ Petition No. 12310 of 2025
and WMP Nos.13899 and 13900 of 2025

N.Semburaj

.. Petitioner

Vs.

1. The Registrar General,
High Court Buildings,
Chennai 600 104.
2. The Principal District Judge,
Namakkal,
Namakkal District.
3. The District Treasury,
Namakkal District.
4. The Assistant Accountant,
Office of the Accountant General (A& E),
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying for, to issue a Writ of Certiorarified Mandamus, to call for the



W.P.No.12310 of 2025

records pursuant to the order passed by the second respondent vide Roc.No.6311/A/2023 dated 28.04.2023 and to quash the same and consequently direct the respondent to refund the amount recovered from the petitioner.

For Petitioner : Mr.V. Karthikeyan

For Respondents : Ms.B.Poongkhuzhali,
Standing Counsel for RR1 & R2

Mr. P.Anandakumar
Government Advocate for RR3 & 4

ORDER

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

Challenge is to the order dated 28.04.2023, in and by which, the Principal District Judge, Namakkal, had directed recovery of a sum of Rs.2,86,502/- from the petitioner. Recovery was ordered based on the audit objections made by the Audit Wing of the High Court, on the ground that the scale of pay for the petitioner in the post of Assistant, Judicial Magistrate No.1 Court, Namakkal, was fixed incorrectly with effect from



W.P.No.12310 of 2025

01.04.2017 to 31.03.2021. In and by the very same proceedings, the salary disbursement Officer had also re-fixed the salary of the petitioner.

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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 recovery of the excess amount paid to the petitioner. The re-fixation done is sustained. If any recovery had been made, the amount recovered alone shall be repaid to the petitioner



W.P.No.12310 of 2025

within a period of twelve weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) (G. ARUL MURUGAN, J.)
07.04.2025

jv

Index: No
Speaking order
Neutral Citation: No

To

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4/5



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W.P.No.12310 of 2025

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and

G. ARUL MURUGAN, J.

(jv)

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