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W.P.No.18525 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2025

**CORAM
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN**

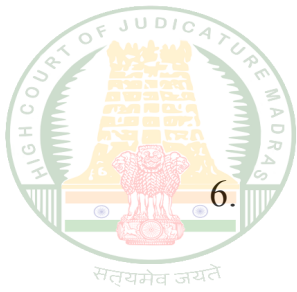
W.P.No.18525 of 2025

A.Sreenivasan

... Petitioner

Vs.

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai.
2. The Director,
Public Health and Preventive Medicine,
DMS Complex Teynampet,
Chennai - 600 006.
3. Principal Accountant General of Tamil Nadu,
Office of the Principal Accountant General
Accounts and Entitlements,
No.361, Anna Salai, Teynampet,
Chennai.
4. The Deputy Director of Health Services,
now, renamed as
District Health Officer, Cheyyaru,
Thiruvannamalai.
5. The Block Medical Officer,
Government Primary Health Centre,
Akkur - 631 701,
Thiruvannamalai District.



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6.

The District Treasurer Officer,
Thiruvannamalai District.

7.

The Sub Treasury Officer,
Cheyyaru Taluk,
Thiruvannamalai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, seeking for an issuance of writ of Certiorarified Mandamus, to call for the records in proceedings R.No.1836/E4/2024 dated 22.05.2024 on the file of the 4th respondent and consequential recovery order in proceedings Na.Ka.No.7249650/E1/2024 dated 25.06.2024 on the file of the 5th respondent, and quash the same and further direct the 5th respondent to grant refund of recovered amount to the tune of Rs.6,08,742/- on account of excess pay to the petitioner.

For Petitioner : Mr.S.C.Vishwanth

For Respondents : Mr.K.Tippu Sultan
Government Advocate for R1, R2, R4 to R7

: Mr.V.Vijay Shankar
Standing Counsel for R3

ORDER

The instant writ petition has been filed challenging the re-fixation order dated 22.05.2024, passed by the 4th respondent and the consequential recovery order dated 25.06.2024, passed by the 5th respondent.



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2. The case of the petitioner is that, the petitioner retired from service on superannuation on 31.07.2024. While so, one month before this retirement, the 4th respondent passed the impugned recovery order dated 25.06.2024, on the premise that, there was excess pay beyond the entitlement of the petitioner from 01.01.1999 to 31.05.2024 and ordered recovery of a sum of Rs.6,08,742/-. The petitioner was a Group-C employee and the alleged excess pay was not made on the basis of any misrepresentation or false promise. Therefore, it is the submission of the petitioner that the instant case squarely comes within the case of ***State of Punjab v Rafiq Masih***, popularly known as White Washer's case.

3. Learned Government Advocate would vehemently contend that the excess pay were made since 01.01.1999 till 31.05.2024 and whenever there is undertaking to refund the excess amount, on the basis of such undertaking, the respondents are entitled to recover the amount from the retirement benefits. Hence prays to dismiss the writ petition.



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4. Heard both sides and perused the materials available on record.

5. From the submissions on the either side, the following point emerges:

(i) the petitioner was a Group-C employee;

(ii) the excess pay was made between 01.01.1999 and 31.05.2024 beyond the period of five years;

(iii) there is no material or any document to show that such excess pay were made on the false representation of the petitioner.

6. In such view of the matter, this case squarely comes within the ratio laid down in ***White Washer's*** case reported in ***(2015) 4 SCC 334*** . For ready reference, I deem it appropriate to extract para.18 of the above judgment:

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

ii. Recovery from 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



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payment has been made for a period in excess of five years, before the order of recovery is issued.

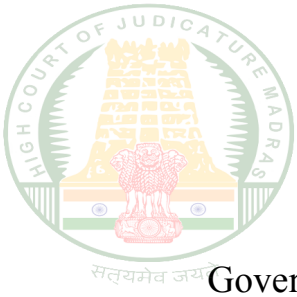
iv. *Recovery in cases where an employee has wrongfully been acquired to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.*

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.”*

(emphasis supplied)

7. As per the above Judgment, whenever recovery from employees belonging to Group-C and recovery is beyond the period of 5 years, then such recovery is liable to be set aside. However, it is made clear that the pay re-fixation made by the respondents is liable to be confirmed, since the pay re-fixation comes within the expert domain.

8. At this juncture, learned Counsel for the petitioner would submit that in pursuance to the impugned order dated 25.06.2024, a sum of Rs.6,08,742/- has already been recovered from the retirement benefits.



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9. However, the said contention was objected by the learned Government Advocate.

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10. In such view of the matter, this Court is of the firm view that the impugned recovery order dated 25.06.2024 is liable to be quashed. However, the re-fixation made by the respondents vide order dated 22.05.2024 is confirmed. Apart from that, if any amount is recovered from the petitioner, the respondents are directed to refund the same without interest within a period of twelve weeks from the date of receipt of a copy of this order.

In the result, the Writ Petition is partly-allowed. No costs.

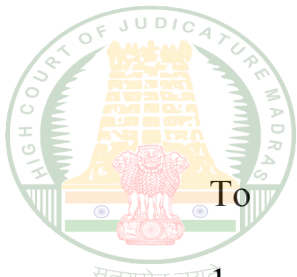
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Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No



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C.KUMARAPPAN, J.

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