



Rev.Aplw.No.226 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Review Application No.226 of 2025
and W.M.P.No.37241 of 2025

1. The Principal Secretary to Government,
Social Welfare and Women Empowerment,
Department, Secretariat,
St. George Fort,
Chennai – 600 009.
 2. The Secretary,
Tamilnadu Commission for Protection of Child Rights,
183/1, EVR Periyar Salai,
Poonamalle High Road,
Kilpauk, Chennai – 600 010.
- .. Petitioners

Versus

1. A.N.Rajsaravanakhumar
 2. The Principal Accountant & General (A&E),
Office of the Accountant General (A&E),
361 Anna Salai,
Teynampet, Chennai – 600 018.
 3. The Commissioner,
Treasuries and Accounts Department.
 4. The Pay and Accounts Officer (North),
Singaravellar Building,
Rajaji Salai, Chennai – 600 001.
- .. Respondents



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Prayer : Review Application filed under Order XLVII Rule 1 r/w Section 114 of the Code of Civil Procedure to review the order, dated 12.06.2024 made in W.P.No.15468 of 2024.

For Petitioner : Mr.R.Neelakandan,
Additional Advocate General,
Asstd. By Mr.M.Murali,
Government Advocate

For Respondents : Mr.J.Prakasam, for R1

ORDER

This Review Application is filed seeking to review the order, dated 12.06.2024 made in W.P.No.15468 of 2024. The parties are referred to by their ranks in the Writ Petition.

2. The brief facts leading to the filing of this Review Application are that the writ petitioner joined the services of the State of Tamil Nadu in the Social Welfare and Women Empowerment Department in 1992 as a Superintendent at the Government Children Home. He was promoted as Deputy Director on 24.08.2002. Following his promotion to Joint Director, a pay fixation was made effective from 01.01.2015, with a salary of Rs.35,460/- plus Rs.7,600 G.P., totaling Rs.43,060/-. After serving 31 years and receiving further increments, the writ petitioner was due to retire



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on 31.05.2023. On the eve of his retirement, an order was issued on 07.05.2023 stating that the pay was incorrectly fixed at Rs.43,060/-, and the correct fixation should be Rs.41,860/-. Besides correcting this error, the impugned order also directed that the excess amount paid to the petitioner, amounting to Rs.3,88,479/-, be recovered from him. Challenging this order, the writ petitioner filed W.P.No.15468 of 2024.

3. After hearing both sides at the admission stage, the Writ Petition was allowed on 12.06.2024 based on the principles established by the Hon'ble Supreme Court of India in *State of Punjab and Ors. etc. Vs. Rafiq Masih (White Washer) etc.*¹, and the following is the operative portion of the order:-

“5. in view thereof, this Writ Petition is disposed of on the following terms:-

(i) The impugned order, bearing Proc.R.No.1/2758/2023, dated 07.05.2023 shall stand valid inasmuch as it re-fixes the pay of the petitioner, but, however, shall stand quashed inasmuch as it orders recovery of the excess amount of Rs.3,95,052/- from the petitioner;

(ii) There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.”

4. While there is no grievance regarding the upholding of the impugned order by the writ petitioner, the respondents in the Writ Petition are dissatisfied because the recovery was not permitted by this Court,

¹ (2014) 8 SCC 883



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leading them to file this Review Application. Since the Writ Petition was disposed of at the admission stage itself, after hearing both sides, this Court is inclined to consider the Review Application on its merits with a liberal approach.

5. Heard *Mr.R.Neelakandan*, learned Additional Advocate General for the review petitioners/respondent Nos.1 and 2, and *Mr.J.Prakasam*, learned Counsel for the first respondent/writ petitioner.

6. The respondents want this Court to review the order on the following grounds:-

(i) The writ petitioner is a Group – I level officer, and therefore, the judgment of the Hon'ble Supreme Court of India in *White Washer's* case (cited *supra*) is not applicable to the facts of this case.

(ii) If the mistake is committed solely by a third party and it is sought to be corrected, this Court can consider the recovery. The petitioner is a Self Drawing Officer, and therefore, if the mistake is committed by himself, there is no question of the recovery being barred by this Court.

(iii) The Hon'ble Supreme Court of India, in a subsequent judgment in *High Court of Punjab and Haryana and Ors. Vs. Jagdev Singh (Civil*



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Appeal No.3500 of 2006), has held that in a fixation, where there is doubt at the time of fixation itself and the incumbent gives an undertaking that he will refund the excess if any, the principle laid down by the Hon'ble Supreme Court of India in **White Washer's** case (cited *supra*) should not be applied, and recovery should be permitted. In the present case, also, at the time of retirement, along with the pension proposal, the writ petitioner submitted an undertaking, whereby, he undertook to refund the overdrawn pay and allowances, leave salary, or other payments made to him. Therefore, in view of this undertaking, the ratio of the judgment of the Hon'ble Supreme Court of India in **Jagdev Singh** (stated *supra*) is applicable to the current case.

Therefore, for all three reasons mentioned above, this Court should review the order, dated 12.06.2024, as it disallowed the recovery.

7. Per *contra*, **Mr.J.Prakasam**, learned Counsel for the first respondent/writ petitioner, submits that the principles laid down by the Hon'ble Supreme Court of India in **White Washer's** case (cited *supra*) are directly applicable to the present case. The petitioner's case falls under paragraph No.12(iii) of that judgment. Regarding the contention that the petitioner is a Self Drawing Officer, the learned Counsel for the writ



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petitioner relies on the Tamil Nadu Treasury Rules. He points out Rule 2(xv), which defines a Self Drawing Officer, as the person who submits claims based on authorization issued by the Accountant General or the Pay Accounts Officer. Furthermore, he draws the Court's attention to the instruction issued by the Government under Treasury Rule 22, specifically paragraph No.1(a), which states that the pay and allowances of the Self Drawing Officer are regulated by the Accountant General, Tamil Nadu, as well as by the Pay and Accounts Officers in Chennai, Madurai, New Delhi, and the Sub-pay Accounts Officer, Chennai.

8. Thereafter, drawing the attention of this Court to the pay fixation in the instant case and the proceedings related to pay fixation, it can be seen that the entire pay fixation was done and authorized by the Pay and Accounts Officer, who signed the pay fixation slip. Only based on this slip does the Self Drawing Officer draw the pay. Therefore, it is not as if the mistake was made by the petitioner himself. Finally, the learned Counsel would submit that the undertaking submitted by the learned Additional Advocate General was given not with reference to the specific pay fixation, but at the time of retirement along with the pension proposal.



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9. I have considered the rival submissions made on either side and perused the material records of the case.

10. The first ground on which the review is sought is that the petitioner is a Class – I officer and, therefore, the principles laid down by the Hon'ble Supreme Court of India in *White Washer's* case (cited *supra*) are not applicable to the instant case. In this regard, it is essential to extract paragraph No.12 of the said judgment of the Hon'ble Supreme Court of India, 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, or employees who are due to retire within one year, of the order of recovery.

(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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11. If the petitioner belongs to the Class - I or Class - II category, sub-paragraph No.12(i) will not apply. However, it must be considered whether the other clauses are relevant for recovery. A review of paragraph No.12(iii) shows that recovery from employees, when excess payments have been made for more than five years before the recovery order is issued, cannot be enforced. In this case, the pay fixation was effective from 2015, so that clause applies. Similarly, paragraph No.12(ii) states that recovery from retired employees or employees who are due to retire within one year of the recovery order should not be enforced. Here, the recovery order was issued just 20 days before the petitioner's retirement. Therefore, paragraphs No.12(ii) and 12(iii) are clearly applicable to this case, and there is no need to revisit the judgment on this basis.

12. The second ground raised in the Review Application is that the petitioner is a Self Drawing Officer. In this regard, as rightly contended by the learned Counsel for the petitioner, the definition of the term 'Self Drawing Officer' is contained in the Tamil Nadu Treasury Rules, 1937, and the definition as contained in Rule 2(xv) is extracted hereunder for ready reference:-

“(xv) **“Self Drawing Officer”** means the Officer who draws his claims on the authorization (pay slip) issued by the Accountant General or the



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Pay Accounts Officer, as the case may be.”

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13. In this regard, the instruction issued under Treasury Rule 22 R

(1)(a) is relevant, and it is reproduced here for easy reference:-

“1. Payments to Self Drawing Officers with a Grade Pay of Rs.7600/- and above:-

(a) The Government servants drawing a scale of pay carrying a Grade pay of Rs.7600/- and above have been declared as Self Drawing Officers. The pay and allowance of the self drawing officers are regulated by the Accountant-General Tamil Nadu and also by the Pay and Accounts Officers in Chennai, Madurai and New Delhi and Sub-Pay and Accounts Officer, Chennai.”

14. Therefore, a combined reading of the definition and paragraph No.1(a) of the instructions makes it clear that it is not as if the Self Drawing Officer fixes his own pay and draws it himself; rather, his pay is authorized by the Pay and Accounts Officer. In this context, if we consider the pay fixation orders, dated 05.01.2015 and the subsequent pay fixation statement, which was initially annexed with the Writ Petition and now, in the Review Application paper book at page Nos.56, 57, and 58, it becomes evident that the entire fixation was carried out and authorized by the Pay and Accounts Officer, Chennai, who has duly signed on 05.01.2015. It is based on this that the Self Drawing Officer submits his bill and draws the pay. Therefore, the argument that a mistake was made by the writ petitioner himself cannot be accepted.



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15. The third ground raised pertains to the judgment of the Hon'ble Supreme Court of India in **Jagdev Singh's** case (cited *earlier*). There can be no dispute with the argument made by the learned Additional Advocate General that the Hon'ble Supreme Court of India, in the aforementioned judgment, clearly held that if, at the time of fixation, an undertaking is obtained from the concerned officer, and the officer also provides an undertaking and is aware that, if a mistake is later discovered, the excess payment made will be recovered, then the individual cannot invoke the principles laid down by the Hon'ble Supreme Court of India in **White Washer's** case (cited *above*) to oppose recovery. However, in this case, no such undertaking was obtained or provided at the time of pay fixation or regarding the pay fixation. The undertaking now presented by the learned Additional Advocate General is part of the pension records. Every person, at the time of retirement, when submitting pension papers, is required to give the following declaration along with the pension papers, which states:

“DECLARATIONS

I hereby declare that I have neither applied for nor Received any Pension or Gratuity in respect of any Portion of the Service Qualifying for this Pension and in respect of Which Pension and Gratuity are Claimed herein nor shall I Submit an application hereafter without quoting a reference to this application and the orders which may be passed thereon.

I do hereby declare to refund the Pension or Gratuity authorized by the Accountant General, Chennai if afterwards found to be in excess



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of the amount to which I am entitled under the Rules.

I hereby certify to make good any loss caused to the Government by way of any overdrawal of pay, allowances, leave salary or other admitted obvious dues as a result of negligence or fraud on my part in service in the department in a lumpsum or in suitable installments from My Pension.

I am aware that future good conduct of the Pensioner/Family Pensioner shall be an implied condition for every grant of Pension/Family Pension and its continuance.”

16. Thus, it can be seen that it is general in nature and does not have the effect of alerting the concerned individual that his pay fixation might be incorrect, nor does it indicate that it will be rectified in the future and the excess amount will be recovered from him. The absence of such clarity and the recovery of a substantial sum at the verge of retirement or after retirement was deemed inequitable by the Hon’ble Supreme Court of India in *White Washer’s* case (cited *supra*). Accordingly, the third submission made in the Review Application is also rejected.

17. Finding no merits in the grounds raised in the Review Application, the same is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

25.11.2025

Neutral Citation : yes
grs



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To

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Office of the Accountant General (A&E),
361 Anna Salai,
Teynampet, Chennai – 600 018.
2. The Commissioner,
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Singaravellar Building,
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D.BHARATHA CHAKRAVARTHY, J.,

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