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W.P.No.22770 of 2025

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 08.07.2025**

**CORAM**

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

**W.P.No.22770 of 2025**

N.P.Indhumathy

... Petitioner

Vs.

1.The District Collector,  
Mayiladuthurai District,  
Mayiladuthurai.

2.The Treasury Officer,  
District Treasury,  
Mayiladuthurai.

3.The Accountant General (A and E)  
No.361, Anna Salai,  
Teynampet,  
Chennai – 18.

... Respondents

**Prayer:**

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent i.e. the District Collector, Mayiladuthurai in his proceedings in Na.Ka.6864/2022/M5 dated 14.03.2025 and quash the same and consequently direct the first respondent to order refund of this amount of sum of Rs.5,41,315/- recovered after retirement within a specified time frame that may be fixed by this Hon'ble Court.



WEB COPY



W.P.No.22770 of 2025

For Petitioner : Mr.K.Ravi Anantha Padmanabhan  
Senior Counsel  
for M/s.S.Dayanand

For Respondents : Mr.R.Sasikumar for R1 and R2  
P.Mano Rajan for R3  
Standing Counsel

### **ORDER**

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent in his proceedings in Na.Ka.6864/2022/M5 dated 14.03.2025 and quash the same and consequently direct the first respondent to order refund of this amount of sum of Rs.5,41,315/- recovered after retirement within a specified time frame that may be fixed by this Court.

2.The learned Senior Counsel appearing for the petitioner would submit that the petitioner retired on superannuation on 31.03.2024 as Special Tahsildar. It is the submission of the learned Senior Counsel that almost after one year of the petitioner's retirement, the respondent served with impugned recovery order dated 14.03.2025 ordering recovery of Rs.5,41,315/- as if there was excess pay since 01.01.2012. The learned Senior Counsel would submit that such



W.P.No.22770 of 2025

recovery is in contravention to the settled legal principles of the Hon'ble Supreme Court held in ***State of Punjab and others vs. Rafiq Masih (White Washer) and others [(2015) 4 Supreme Court Cases 334]***. However, he would submit that the petitioner is not disputing re-fixation and only refuting recovery.

3.Per contra, the learned Government Advocate would submit that recovery was effected only based on the report received from the Accountant General for excess pay. Whenever re-fixation is made, the petitioner has to repay the excess amount, if the same comes to the light of the Department. In the present case, excess pay came to the knowledge of the Department through the letter received from the Accountant General.

4.The learned Standing Counsel appearing for the third respondent also supported the contentions given by the learned Government Advocate.

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



W.P.No.22770 of 2025

6.It is admitted fact that the petitioner retired from service on 31.03.2024. The impugned order has been passed subsequent to the retirement on 14.03.2025. It is further submitted that such amount was ordered to be recovered from 01.01.2012, which is beyond five years. It is not the case of the respondents that the amount was paid on the basis of mis-representation or falsification of records, however, it is only due to administrative lapse. Further the excess amount has ordered to recovered almost after a period of five years, which would harshly affect the petitioner. In a similar situation, the Hon'ble Supreme Court in ***State of Punjab and others vs. Rafiq Masih (White Washer) and others [(2015) 4 Supreme Court Cases 334]***, held as follows in paragraph 18:

***"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 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***



WEB COPY



W.P.No.22770 of 2025

***belonging to Class-III and Class-IV service (or Group C and Group D service).***

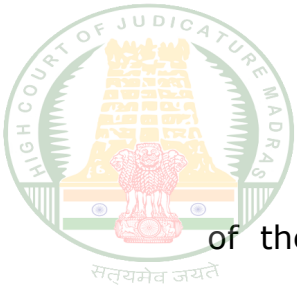
***(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.***

***(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."***

7.In the above case, the Hon'ble Supreme Court has categorically held that there cannot be any recovery for the amount which has been paid more than five years and also after the retirement



W.P.No.22770 of 2025

of the employee. Therefore, as rightly contended by the learned Senior Counsel appearing for the petitioner, such recovery would definitely impinge upon the petitioner's right to life.

8.In such view of the matter, this Court is of the view that the impugned order needs to be interfered with. Hence, the impugned order dated 14.03.2025 ordering recovery of a sum of Rs.5,41,315/- is hereby quashed. At the same time, as agreed by the petitioner, re-fixation is confirmed. At this juncture, the learned Senior Counsel appearing for the petitioner would submit that the amount has already been recovered by the Department. If such amount has already been recovered from the petitioner, the respondents are directed to refund the same, within a period of three months from the date of receipt of a copy of this order, without any interest.

9.The writ petition is partly allowed as indicated above. No costs.

**08.07.2025**

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Index: Yes/ No  
Speaking Order: Yes/ No  
NCC: Yes/ No

6/8



W.P.No.22770 of 2025

WEB COPY

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W.P.No.22770 of 2025

**C.KUMARAPPAN,J.**  
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**W.P.No.22770 of 2025**

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