

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-06-2025

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THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

WP No. 23218 of 2025

and

WMP Nos.26058 & 26061 of 2025

M.Jayaseelan

Petitioner(s)

Vs

1.The Director Of Public Health And
Preventive Medicine,
Chennai-600 006.

2.The District Health Officer,
Thirupathur.

Respondent(s)

PRAYER

Calling for the concerned records relating to the order in No. Na.Ka. No.0561/ E3/ 2024 dated 30.09.2024 and order in Na.Ka. No.0561/ E3/ 2024 dated 08.12.2024 passed by the 2nd respondent and quash the same and consequently direct the 2nd respondent to refund the amount of Rs.4,44,460/- Death-cum-Retirement gratuity recovered by the 2nd respondent to the petitioner with interest.



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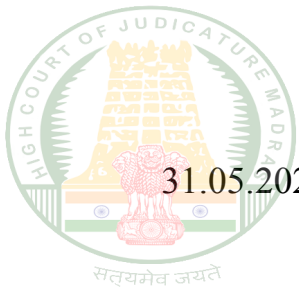
For Petitioner(s): Mr.M.Gnanasekar

For Respondent(s): Mr.K.Tippu Sultan
Government Advocate

ORDER

The writ petition has been filed challenging the orders passed by the 2nd respondent on 30.09.2024 and 08.12.2024 directing recovery of excess salary paid to the petitioner and seeking a consequential direction to refund the amount of Rs.4,44,460/- (Death-cum-Retirement Gratuity) recovered by the 2nd respondent from the petitioner along with interest.

2. The learned counsel for the petitioner would submit that the petitioner upon reaching the age of superannuation, was retired from service as a Technical Personal Assistant-II, District Health Officer in the respondent-Department on 31.05.2024. Subsequent to the retirement, an impugned order dated 30.09.2024 was passed directing recovery of a sum of Rs.4,44,460/- on the ground that there was an excess pay between the period 01.08.1997 to



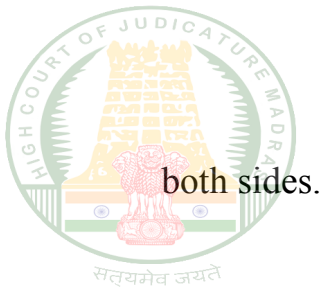
31.05.2024 beyond the petitioner's entitlement.

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3. It is the submission of the petitioner that the impugned order is contrary to the judgment of the Hon'ble Supreme Court of India in the case of ***State of Punjab and Other vs. Rafiq Masih (White Washers)***¹. However, the learned counsel for the petitioner fairly admits that they are not disputing the pay fixation but only objecting to the recovery, as it contravenes the Hon'ble Supreme Court judgment.

4. The learned Government Advocate appearing on behalf of the respondents would contend that the pay fixation was made in pursuance of the instructions of the Accountant General (Audit) and that whenever pay re-fixation is made, the petitioner had agreed to refund any excess payment that comes to the knowledge of the department in future. Therefore, there cannot be any grievance for the petitioner regarding the impugned orders.

5. I have given my anxious consideration to the submissions made by
1. 2015 (4) SCC 334



both sides.

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6. It is an admitted fact that the impugned orders were passed subsequent to the petitioner's representation and it is not the case of the respondent that the pay fixation was made based on the misrepresentation or false submission of documents by the petitioner. In such view of the matter, as rightly contended by the learned counsel for the petitioner, the facts of this case squarely comes with in the judgment of the Hon'ble Supreme Court of India in the ***Rafiq Masih (White Washers)*** case (cited supra).

7. Therefore, the impugned orders passed by the 2nd respondent dated 30.09.2024 and 08.12.2024 are quashed to the extent of recovery alone. The respondents are directed to settle the retirement benefits to the petitioner, including the recovered amount of Rs.4,44,460/-, as expeditiously as possible. It is made clear that the pay fixation is confirmed.



8. With the above directions, this Writ Petition is partly-allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. The Director Of Public Health And
Preventive Medicine,
Chennai-600 006.

2. The District Health Officer,
Thirupathur.



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C.KUMARAPPAN J.

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