



W.P.No.24782 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.24782 of 2025
and W.M.P.Nos.27930 and 27931 of 2025

B.Rajasekar

... Petitioner

Vs.

1.The Director of Public Health and Preventive Medicine,
Chennai – 600 006.

2.The Accountant General (A&E),
Anna Salai,
Chennai – 600 008

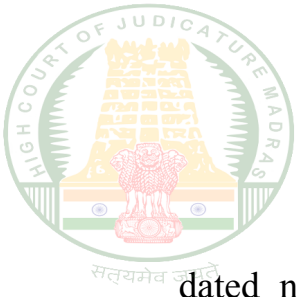
3.The Pay and Accounts Officer (South),
Nandhanam
Chennai – 600 035

4.The Deputy Director of Health and Services
Villupuram.

5.The Block Medical Officer,
Government Primary Health Center,
Radhapuram, Vikravadi Block
Villupuram District – 605 501.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, after calling for the concerned records relating to the order in **ந.க.எண்.0792/அ2/2022** dated 05.04.2023 passed by the 4th respondent and order in R.No.038/A2/2016



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dated nil.05.2023 passed by the 5th respondent and quash the same and consequently direct the 4th respondent to refund the recovered amount of Rs.3,48,486/- to the petitioner.

For Petitioner : Mr.M.Gnanasekar

For R1, R3 to R5 : Mr.K.Tippu Sultan
Government Advocate

For R2 : Mr.A.N.R.Jayaprathap
Standing Counsel

ORDER

By consent of both the learned counsel for the parties, the Writ Petition is taken up for final disposal, at the admission stage itself.

2. The instant writ petition has been filed with a prayer for issuing a Certiorarified Mandamus, after calling for the concerned records relating to the order in न.क.गण.0792/अ2/2022 dated 05.04.2023 passed by the 4th respondent and order in R.No.038/A2/2016 dated nil.05.2023 passed by the 5th respondent and quash the same and consequently direct the 4th respondent to refund the recovered amount of Rs.3,48,486/- to the petitioner.

3. Heard the learned counsel for both sides and perused the materials



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available on record.

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4. The learned counsel for the petitioner would submit that the petitioner has joined in the Respondents-Department as Leprosy Inspector on 15.09.1988 and on attaining the age of superannuation, he retired from service on 31.05.2023 as Non Medical Supervisor and just prior to the date of his retirement, on 05.04.2023 the impugned order has been passed by the 4th respondent directing the 5th respondent to recover the excess amount paid to the petitioner. Thereafter, the 5th respondent, vide impugned order dated Nil.05.2023 has revised the pay fixation and ordered recovery of a sum of Rs.3,48,486/- from the petitioner on the ground that there was an excess pay since 01.08.1997 to 30.04.2023. The learned counsel for the petitioner would submit that there was no excess pay made to him and that the pay was not fixed on any misrepresentation, it is an administrative action. Therefore, any recovery after the retirement of the petitioner would cause great hardship to him and would directly offend his right to life.

5. At this juncture, the learned counsel for the petitioner would submit that he has no objection for the refixation.

6. Per contra, the learned Government Advocate appearing for the respondents 1, 3 to 5 would submit that there is a long delay in filing the writ



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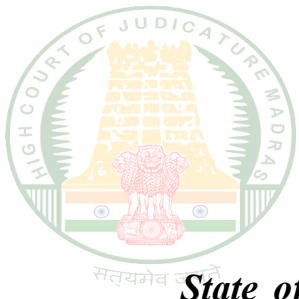
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petition and therefore, the present writ petition is liable to be dismissed on the ground of delay and laches. Apart from that, the learned Government Advocate would submit that whenever the pay refixation is ordered, all employees had given undertaking to repay the same, if any excess payment was made. Therefore, contended that the petitioner cannot have any grievance in respect of the impugned orders.

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

8. It is an admitted fact that the impugned orders were passed few days prior to the date of his retirement and admittedly, the petitioner is Group-C employee and apart from that, the recovery was ordered to be made beyond the period of five years since 1997. Though the learned Government Advocate for the respondents 1, 3 to 5 would strongly object the contention that there is a delay, it is not their case that the refixation was made upon the misrepresentation or falsification of the record by the petitioner.

9. In such view of the same, the facts of the present case is squarely comes with in the ratio of the judgment of the Hon'ble Supreme Court in



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State of Punjab and others vs. Rafiq Masih (White Washer) and others,
reported in ***(2015) 4 SCC 334***. Paragraph No.18 of the said judgment, reads
as follows:-

“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 hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

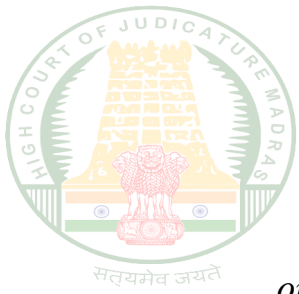
(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii) Recovery from the 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 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



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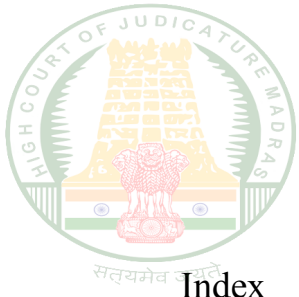
outweigh the equitable balance of the employer's right to recover.”

10. In view of the above ratio, this Court deems it appropriate that the impugned order passed by the 4th respondent in Na.Ka.No.0792/A2/2022, dated 05.04.2023 and subsequent impugned order passed by the 5th respondent in R.No.038/A2/2016, dated nil.05.2023 are liable to be quashed to the extent of recovery alone. However, this Court made it clear that the refixation made by the 5th respondent is confirmed.

11. At this juncture, the learned counsel for the petitioner would submit that the above amount has already been recovered by the respondents. If such amount has already been recovered by the respondents, the respondents are directed to refund the same to the petitioner, without any interest, within a period of three months from the date of receipt of copy of this order.

12. In the result, the Writ Petition is partly allowed. No costs. Consequently, the connected writ miscellaneous petitions are closed.

09.07.2025



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Index : Yes/No

Speaking order

Neutral Citation : Yes/No

dm

To

- 1.The Director of Public Health and Preventive Medicine,
Chennai – 600 006.
- 2.The Accountant General (A&E),
Anna Salai, Chennai – 600 008
- 3.The Pay and Accounts Officer (South),
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C.KUMARAPPAN, J.

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