



W.P.No.26230 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2025

CORAM

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

**W.P.No.26230 of 2025**  
**and W.M.P.No.29982 of 2025**

M.Shakila

... Petitioner

Vs.

1.The District Collector,  
Krishnagiri Collectorate,  
Hosur Road,  
Krishnagiri-635115.

2.The Commissioner,  
Department of Agriculture,  
Chepauk,  
Chennai-600002.

3.The Joint Commissioner,  
Department of Agriculture,  
Krishnagiri-635115.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the orders of the 3<sup>rd</sup> respondent proceedings in A2/660/2023 dated 19.07.2023. Consequently, direct the respondents 2 and 3 to refund the deducted amount of Rs.89,121/- with interest of 12% to the petitioner and refix the pension of the petitioner and pay all consequential arrears.

For Petitioner

: Mr.P.Balamurali



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For Respondents

: Mr.R.Sasi Kumar  
Government Advocate

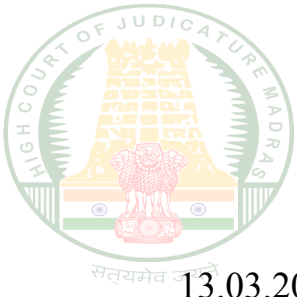
### **ORDER**

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 Writ of Certiorarified Mandamus, calling for the records relating to the orders of the 3<sup>rd</sup> respondent proceedings in A2/660/2023 dated 19.07.2023. Consequently, direct the respondents 2 and 3 to refund the deducted amount of Rs.89,121/- with interest of 12% to the petitioner and refix the pension of the petitioner and pay all consequential arrears.

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

4. The learned counsel for the petitioner would submit that the petitioner was appointed as Typist in the office of the 3<sup>rd</sup> respondent on 12.10.1981 and she was promoted to the post of Grade-I Typist on



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13.03.2008 and after rendering 35 years of service, she retired from service on 30.06.2016. However, vide impugned order dated 19.07.2023, a recovery was ordered by the 3<sup>rd</sup> respondent, as if the promotion was given to the petitioner wrongly and the excess payment was made from the date of wrong promotion *qua* 13.03.2008. It is the contention of the petitioner that there is a delay of more than 7 years from the date of the petitioner's retirement in passing the impugned order and she prayed to interfere with the same.

5. At this juncture, the learned Government Advocate appearing for the respondents would strongly object the contention of the petitioner and would contend that the petitioner was wrongly promoted which was later found and on the basis of the wrong promotion, excess pay was paid to her. Therefore, there cannot be any grievance to the petitioner in recovering the same.

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

7. It is an admitted fact that at the time of retirement, the petitioner was served as a Grade-I Typist, which comes under Group-C Officer and apart



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from that, though she was retired from service on 30.06.2016, the impugned order for recovery was passed on 19.07.2023, after a period of 7 years. It is pertinent to mention here that the alleged recovery was on the premise that there was a wrong promotion given to the petitioner on 13.03.2008. Though it is the contention of the respondents that there was a wrong promotion was given to the petitioner, it is not their case that such promotion was given on the misrepresentation of the petitioner. Apart from that, the alleged amount ordered to be recovered is for the period more than 5 years from today. At the same time, the learned counsel for the petitioner would agree for refixation of the pay as it comes within the expert domain.

8. It is the specific contention of the petitioner that, if any recovery is made after a period of 7 years from the date of retirement, it would cause a great hardship and inequities impact upon her right to life. The very submission of the petitioner is liable to be accepted and apart from that, the case in hand is squarely comes within the ratio laid down by the Hon'ble Supreme Court in *State of Punjab and others vs. Rafiq Masih (White Washer) and others*, reported in (2015) 4 SCC 334. The observation of the Hon'ble Supreme Court in the said judgment reads as follows:-



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



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9. Therefore, this Court find force in the submission of the petitioner and the impugned order passed by the 3<sup>rd</sup> respondent dated 19.07.2023 is quashed. However, the refixation made by the Government is confirmed.

10. In the result, the Writ Petition is partly allowed as indicated above.  
No costs. Consequently, the connected writ miscellaneous petition is closed.

**22.07.2025**

Index : Yes/No  
Speaking order /Non Speaking Order  
Neutral Citation : Yes/No  
dm



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To  
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**C.KUMARAPPAN, J.**

dm

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