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W.P.No.25765 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2025

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THE HONOURABLE MS. JUSTICE P.T. ASHA

W.P.No.25765 of 2023 and
W.M.P.No.25195 of 2023

S.Arulraj

...Petitioner

Vs.

1. The Director of Local Fund Audit,
Integrated Complex for Finance Department,
Animal Husbandry Hospital Complex,
Teynampet,
Chennai.

2. The Deputy Director of Local Fund Audit,
Tiruppur Corporation,
Tiruppur.

3. The Assistant Commissioner,
Tiruppur Corporation,
Tiruppur.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the 1st impugned order issued by the 3rd respondent in proceedings Na.Ka.No.C3/3495/2019 dated 29.08.2019 and the 2nd Impugned order issued by the 3rd respondent in proceeding Na.Ka.No.C3/3495/2019 dated 18.09.2019 and quash these orders in so far as it imposes a recovery of a sum of



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Rs.235470/- and consequently to direct the respondents to repay the recovered amount of Rs.235470/- to the petitioner with a consequential service and monetary benefits.

For Petitioner : Mr.R.Prem Narayan
For R1 & R2 : Mrs.S.Anitha
Special Government Pleader
For R3 : Mr.D.R.Arunkumar

ORDER

The writ petition is filed for the relief herein below set out:

“to call for the records in pursuant to the 1st impugned order issued by the 3rd respondent in proceedings Na.Ka.No.C3/3495/2019 dated 29.08.2019 and the 2nd Impugned order issued by the 3rd respondent in proceeding Na.Ka.No.C3/3495/2019 dated 18.09.2019 and quash these orders in so far as it imposes a recovery of a sum of Rs.235470/- and consequently to direct the respondents to repay the recovered amount of Rs.235470/- to the petitioner with a consequential service and monetary benefits.”

2. The brief facts which has culminated in the filing of this writ petition are set out below:



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2.1. The petitioner was working in the cadre of Cleaner in the Water Supply Department of Tiruppur Corporation and had voluntarily retired from service as Group D employee with effect from 28.06.2019. After his voluntary retirement, the 3rd respondent had issued the 1st impugned order in proceedings dated 29.08.2019, wherein the 3rd respondent informed the 2nd respondent that an endorsement has been made in the last drawn pay certificate to recover the alleged excess paid pay of Rs.2,19,776/- from his pension and requested the 2nd respondent to verify the same and issue audit certificate for the purpose of sanctioning pension benefits. Subsequently, the 3rd respondent had issued the 2nd impugned order to the petitioner in proceeding dated 18.09.2019 stating that the retirement benefits were disbursed after recovering the excess paid pay of Rs.2,35,470/-.

2.2. The above impugned orders have been issued without issuing any show cause notice. Therefore, the impugned orders are not legally sustainable and thus liable to be set aside. Aggrieved, the petitioner is before this Court.

3. It is the contention of the learned counsel for the petitioner that in the light of the judgment of Hon'ble Supreme Court in the case of *State of Punjab*

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vs. Rafiq Masih reported in **(2015) 4 SCC 334** popularly called as **White Washer's Case** and also in violation of G.O.Ms.No.286 Finance (Pension) Department dated 28.08.2018, the recovery was *per se* illegal.

4. Heard the learned counsel on either side and perused the materials available on record.

5. The entire case rests on whether the respondents have the authority to recover the money from the petitioner.

6. The petitioner has placed reliance on the **White Washer's case**, *supra*, where, the Hon'ble Supreme Court has set out the categories where the recovery by the employer would be impermissible in law in paragraph No.18 which would read 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 herein above, we may, as a ready reference, summarize the following few situations, wherein recoveries by the employers, would be impermissible in law:-



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(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.”

7. In this case, the present petitioner belongs to the Class IV service employee, covered under paragraph 18 (i) aforesaid judgment. Therefore, the recovery is bad. Post the judgment of the Hon'ble Supreme Court in *White washer case*, the Government had passed G.O.Ms.286 Finance (Pension) Department dated 28.08.2016 incorporating the guidelines of the said judgment.



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8. In view of the above, the Writ Petition is allowed directing the respondents to repay the recovered amount of Rs.2,35,470/- to the petitioner within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

1. The Assistant General Manager,
Indian Bank,
HRM Department, Head Office
No.66, Rajaji Salai,
Chennai – 600 001.

2. The Assistant General Manager
Indian Bank,
HRM Department, Corporate Office
Avvai Shanmugam Salai,
Royapettah, Chennai – 600 001.

3. The Branch Manager
Indian Bank,
Madambakkam Branch,
Chennai

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