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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-11-2025

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THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

WP No. 27289 of 2023

and

WMP No.26722 of 2023

K.Balasubramaniam

Petitioner(s)

Vs

1.The Government of Tamil Nadu
Rep. By its Finance Secretary,
Finance (Pay Cell) Department,
Fort St. George, Chennai - 600 009.

2.The Regional Joint Director,
Treasury And Accounts,
Coimbatore -18.

3.The District Treasury Officer,
District Treasury ,
Coimbatore, Pin-641 018.

Respondent(s)

Prayer: Writ Petition filed under Article 226 of Constitution of India praying
for the issuance of a Writ of Declaration declaring the action of the respondents
reducing the pension from Rs. 42,201/- to Rs. 36,349/- and the consequent order



of the recovery of the 3rd respondent by Na.Ka.No.4277/Y4/2023 dated 19.06.2023 is illegal and to direct the respondents to refund the amount recovered from February 2023 and continue to disperse the same pension without any reduction or recovery.

For Petitioner (s): Mr.K.Venkataramani
Senior Counsel
for M/s.M.Muthappan
M.Vigneshraj

For Respondent (s): Mr.V.Jeevagiridharan, AGP

ORDER

This writ petition has been filed challenging the order of the third respondent, thereby ordered for re-fixation of pension and recovery.

2.The case of the petitioner is that the petitioner had retired from service on 31.03.2010 as Assistant Executive Engineer. After a period of 13 years, the respondents have now ordered for re-fixation of pension and also recovery on the ground that the petitioner's pension was wrongly fixed.

3.Heard the learned counsel appearing on either side and perused the



materials available on record.

4. In view of the submissions made, this Court is of the view that the petitioner's pension was wrongly fixed and it has to be revised. Insofar as recovery is concerned, the Hon'ble Supreme Court in ***Jagdish Prasad Singh Vs. State of Bihar and Others*** reported in ***2024 SCC Online SC 1909*** held as follows:

23. In the case of State of Punjab v. Rafiq Masih (White Washer), this Court held as under:

"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.

(emphasis supplied)

Hence, insofar as recovery is concerned, the impugned order cannot be sustained. Therefore, the order impugned in this writ petition cannot be sustained insofar as recovery alone and insofar as re-fixation of pension, it can be sustained.

5. Accordingly, the impugned order is set aside insofar as the recovery alone and the writ petition stands partly allowed. It is made clear that if any recovery is made from the petitioner, the respondents are directed to refund the same within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also closed.



25-11-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

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G.K.ILANTHIRAIYAN, J.

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