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W.P.No.32172 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 32172 of 2025

A.Ravi

...Petitioner

VS.

1.The Secretary
Health and Family Welfare Department,
Fort St. George,
Chennai.

2.The Director
Public Health and Preventive Medicine,
DMS Complex Teynampet,
Chennai-600 006.

3.Principal Accountant General of Tamil Nadu,
Office of the Principal Accountant General
Accounts and Entitlements,
No.361, Anna Salai,
Teynampet,
Chennai.



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4.The Deputy Director of Health Services

Now, renamed as

District Health Officer,
Kancheepuram.

5.The Block Medical Officer

Government Primary Health Centre

Paranthur,

Kancheepuram District.

6.The District Treasurer Officer

Kancheepuram District.

7.Assistant Treasury Officer

Sub Treasury Office,

Kancheepuram Taluk,

Kancheepuram District

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of

India for issue of Writ of Certiorarified Mandamus, call for the records

in proceedings R.No.1351/ E5/ 2023 dated 22.01.2025 on the file of the

4th respondent and consequential recovery order in proceedings

R.No.126/A1/2024 dated 07.03.2025 on the file of the 5th respondent



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and quash the same and further direct the 5th respondent to grant refund of recovered amount to the tune of Rs.700291/-.

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For Petitioner : Mr. S.C.Vishwanth
For Respondents : Mr. M.Bindran
1, 2, 4 to 7 Additional Government Pleader
For Respondent 3: Mr. P.Mano Rajan
Standing Counsel

ORDER

The Writ Petition is filed for the following relief:

“call for the records in proceedings R.No.1351/ E5/ 2023 dated 22.01.2025 on the file of the 4th respondent and consequential recovery order in proceedings R.No.126/A1/2024 dated 07.03.2025 on the file of the 5th respondent and quash the same and further direct the 5th respondent to grant refund of recovered amount to the tune of Rs.700291/-.”.



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2. The petitioner was appointed as a Leprosy Inspector under the 1st respondent on 29.12.1988. At the time of his superannuation he was holding the post of Non Medical Supervisor. He had attained superannuation on 30.06.2025.

3. The petitioner would submit that when he was due to retire, in the month of January 2025 he was issued with an impugned order of reduction and re fixation of his pay by proceedings dated 22.01.2025 and further recovery of a sum of Rs.700291/- was also ordered by order dated 07.03.2025. Therefore aggrieved the petitioner is before this Court.

4. Heard the learned counsels for the petitioner and the respondents.

5. The issue of recovery was the subject matter of the Judgement of the *State of Punjab Vs. Rafiq Masih (White Washer) etc.*, reported



in **2015 (4) SCC 334**. The Hon'ble supreme Court has held that the recovery cannot be done without issuing a show cause notice.

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6. That apart, the Hon'ble Supreme Court had laid down five contingencies where recovery by the employers was impermissible in law and the same would read as follows:-

(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



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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. The above guidelines have been followed by the Government of Tamil Nadu in GO.Ms.No.286 dated 28.08.2018 (Finance and Pension Department)

8. In the light of the aforesaid Judgement, the amount which has been paid to the petitioner cannot be sought to be recovered. In case the amount has been recovered the same shall be refunded to the petitioner within a period of 2 months from the date of receipt of a copy of this order.



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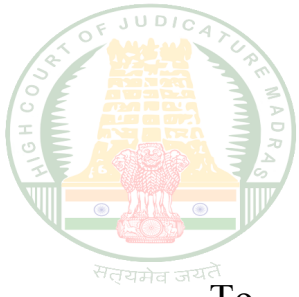
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9. Accordingly, the Writ Petition is partly allowed directing refund of the amounts recovered and with reference to the other relief pertaining to refixation the petitioner is directed to give a representation on such representation been made, the same shall be considered within a period of two months after affording an opportunity to the petitioner to submit his objections to the refixation.

No costs.

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Index : Yes/No
Internet : Yes/No
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