



WEB COPY

W.P.No.31691 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No. 31691 of 2024
and
W.M.P.Nos. 34439 & 34440 of 2024

Sivaraman

...Petitioner

Vs.

1.The Registrar General,
High Court of Madras,
High Court Campus,
Chennai - 600104.

2.The Principal Secretary to Government,
Home (Court V) Department,
Fort. Saint George, Chennai - 9.

3.The Principal District Judge,
Dharmapuri, Dharmapuri District.

4.The Chief Judicial Magistrate,
Dharmapuri, Dharmapuri District.

5.The Principal Accountant General (A and E),
AG's Office (Audit) Complex,
Anna Salai, Roast Revor Garden,
Teynampet, Chennai - 600 018.

6.The District Treasury Officer,
Dharmapuri, Dharmapuri District.

...Respondents



Prayer: Writ Petition filed under 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the 4th respondent in connection with proceedings ROC.No. 1910 of 2022 dated 16.06.2022 and quash the same and consequently direct the respondents to continue to pay at the existing fixation of pay and not to recovering the alleged excess amount paid to the petitioner.

For Petitioner : Mr.M.Selvam

For Respondents : Ms.B.Poonguzali for R1, R3 & R4
Mr.V.Vijayshankar for R5
Mr.P.Balathandayutham
Special Govt. Pleader for R2 & R6

ORDER

(Order of the Court was made by R.SUBRAMANIAN, J.)

Challenge is to the order dated 16.06.2022, in and by which, the salary disbursement Officer / Chief Judicial Magistrate, Dharmapuri had directed recovery of a sum of Rs.1,24,399/- from the petitioner in 30 monthly installments. Recovery was ordered based on the audit objections made by the Audit Wing of the High Court, on the ground that the petitioner was sanctioned with an inadmissible increment, upon his transfer from the post of Watchman to the post of Office Assistant with effect from 2/6



01.07.2007. In and by the very same proceedings, the salary disbursement Officer had also re-fixed the salary of the petitioner, after allowing the admissible increments.

2. The main ground of challenge to the order is that recovery cannot be made. The question of recovery is covered by the judgment of the Hon'ble Supreme Court in *State of Punjab and Others Vs. Rafiq Masih (White Washer's case)* reported in *AIR 2015 SC 696*. A Division Bench of this Court in *P.Ponnusamy Vs. The Registrar General, High Court of Madras* made in *W.P.No.8952 etc., batch of 2023* dated *04.03.2024* has, after referring to the relevant precedents on the point held that recovery cannot be made but, the Division Bench in the said judgment has also pointed out, re-fixation that has been done in accordance with pay rules shall be sustained. The said judgment, in our opinion, squarely covers the issue raised in this writ petition also.

3. In view of the same, this Writ Petition is **partly allowed**, quashing the order to the extent that it directs the recovery of the excess amount paid to the petitioner. The re-fixation done is sustained. If any recovery had



W.P.No.31691 of 2

been made, the amount recovered alone shall be repaid to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, W.M.P.No.34440 of 2024 filed for a direction to refund the amount that had been recovered from the petitioner is allowed and other connected miscellaneous petitions are closed. No costs.

(R.S.M., J.) (G.A.M., J.)
13.02.2025

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Internet: Yes

Index: No

Speaking

Neutral Citation : No



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R.SUBRAMANIAN, J.
and
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