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WP No. 31747 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-12-2025

CORAM

THE HONOURABLE MS. JUSTICE P.T. ASHA

**W.P.Nos. 31747, 31749, 31753,
31756, 31759 and 31762 of 2023**

S.Ambujammal

...Petitioner in W.P.No.31747 of 2023

R.Revathy

...Petitioner in W.P.No.31749 of 2023

D.Mangaleshwari

...Petitioner in W.P.No.31753 of 2023

M.K.Banu

...Petitioner in W.P.No.31756 of 2023

M.Savithri

...Petitioner in W.P.No.31759 of 2023

S.Daisy Jacqueline Valarmathy

...Petitioner in W.P.No.31762 of 2023

Vs

1. The State of Tamil Nadu,
Represented by its Secretary,
Finance (Pension) Department,
Fort St.George,
Chennai 600 009.

2.The Director Of Local Fund Audit,
Integrated Finance Department,
Offices Complex,
4th Floor, No.571, Anna Salai,
Nandhanam,
Chennai-600 035.

3.The Commissioner
Cuddalore Municipality,



Cuddalore.

...Respondents in all W.P.s

Prayer in W.P.No. 31747 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Declaration, declaring that the Order passed by the 2nd respondent to recover from the terminal benefits of the petitioner to a tune of Rs.1,26,222/- and direct the 2nd respondent to refund the attached excess payment of Pension in P.P.O.No.27551 with 18% interest and revise the pension based on the last drawn scale of pay and continue to pay the revised pension with correct Grade Pay to the petitioner.

Prayer in WP No. 31749 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Declaration, declaring that the Order passed by the 2nd respondent to recover from the terminal benefits of the petitioner to a tune of Rs.1,26,222/- and direct the 2nd respondent to refund the attached excess payment of Pension in P.P.O.No.29549 with 18% interest and revise the pension based on the last drawn scale of pay and continue to pay the revised pension with correct Grade Pay to the petitioner.

Prayer in WP No. 31753 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Declaration, declaring that the Order passed by the 2nd respondent to recover from the terminal benefits of the petitioner to a tune of Rs.1,94,367/- and direct the 2nd respondent to refund the attached excess payment of Pension in P.P.O.No.27550 with 18% interest and revise the pension based on the last drawn scale of pay and continue to pay the revised pension with correct Grade Pay to the petitioner.

Prayer in WP No. 31756 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Declaration, declaring that the Order passed by the 2nd respondent to recover from the terminal benefits of the petitioner to a tune of Rs.1,57,882/- and direct the 2nd respondent to refund the attached excess payment of Pension in P.P.O.No.26573 with 18% interest and revise the pension based on the last drawn scale of pay and continue to pay the revised pension with correct Grade Pay to the petitioner.

Prayer in WP No. 31759 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Declaration, declaring that the



Order passed by the 2nd respondent to recover from the terminal benefits of the petitioner to a tune of Rs.1,89,964/- and direct the 2nd respondent to refund the attached excess payment of Pension in P.P.O.No.29276 with 18% interest and revise the pension based on the last drawn scale of pay and continue to pay the revised pension with correct Grade Pay to the petitioner.

Prayer in WP No. 31762 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Declaration, declaring that the Order passed by the 2nd respondent to recover from the terminal benefits of the petitioner to a tune of Rs.1,47,241/- and direct the 2nd respondent to refund the attached excess payment of Pension in P.P.O.No.28897 with 18% interest and revise the pension based on the last drawn scale of pay and continue to pay the revised pension with correct Grade Pay to the petitioner.

For Petitioner : Mr.A.R.Nixon
(in all cases)

For Respondent(s): Ms.S.Anitha
(in all cases) Special Government Pleader
for R1 and R2
Ms. L.P. Maurya For R3

COMMON ORDER

Aggrieved by the order of the second respondent directing the recovery of amount from the terminal benefits of the petitioners, the petitioners are before this Court, seeking a declaration that the second respondent's order of recovery was bad and to direct the second respondent to refund the attached excess payment of pension and revise



the pension based on the last drawn scale of pay and continue to pay the revised pension with corrected Grade Pay to the petitioners.

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2. The petitioners were appointed in their respective posts which are mentioned hereunder in the Municipal Department and had retired from their services on attaining their superannuation. On retirement, the petitioners had received the terminal benefits sanctioned by the authorities.

<i>S.No</i>	<i>W.P.No.</i>	<i>Petitioner Name</i>	<i>Appointed as</i>	<i>Date of Retirement</i>
1	31747 of 2023	S.Ambujammal	Urban Health Nurse	30.04.2017
2	31749 of 2023	R.Revathy	Urban Health Nurse	31.03.2020
3	31753 of 2023	D.Mangaleshwari	Urban Health Nurse	31.03.2017
4	31756 of 2023	M.K.Banu	Urban Multipurpose Health Work	31.01.2015
5	31759 of 2023	M.Savithri	Multipurpose Health Work	31.12.2019
6	31762 of 2023	S.Daisy Jacqueline Valarmathy	Maternity Assistant	31.01.2015

3. While so, all of a sudden, without notice to the petitioners, the respondents sought to recovery the amounts from the petitioners terminal benefits stating that the Audit Objection have been made with reference to



the fixation of Grade Pay to the petitioners. As per the provisions of the G.O.(Ms)No.297 (Fin.) (ஊ.கு.)Department, dated 26.08.2010, the Urban Health Nurse in ordinary grade was given the increased Grade Pay from Rs.2,000/- to Rs.2,400/- and the benefits were directed to pay from the year 2010, based on which, the petitioners have been receiving the same and it is this amount that is recovered on the ground that it is wrong fixation of pay. The petitioners therefore, challenge the same, on the ground that the order has been passed without any notice and that the recovery is belated.

4. It is the contention of the learned counsel for the petitioners that in the light of the judgment of Hon'ble Supreme Court in the case of ***State of Punjab vs. Rafiq Masih*** reported in ***(2015) 4 SCC 334*** popularly called as White Washer's Case, the recovery were *per se* illegal.

5. A counter affidavit has been filed by the respondents *inter alia* contending that the petitioners were entitled to the revised pay benefits only from 01.04.2013 as per G.O.Ms.No.297 dated 22.07.2013 and therefore, the monetary benefits extended to the petitioners is totally



erroneous. It is the contention of the 3rd respondent that the petitioners had retired from service and the last pay drawn had been changed as Rs.5,200-20,200/- + Grade Pay Rs.2,400/- from 01.01.2006 and monetary benefits from 01.04.2013. Therefore, the excess payment in respect of the petitioners were calculated for the period from 01.08.2010 to 31.03.2013 and it is this quantified amount that is sought to be recovered. They would also contend that the petitioners have agreed to repay the said amount.

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

7. The entire case rests on whether the respondents have the authority to recover the money from the petitioners.

8. Ultimately, the Government issued G.O.Ms.No.297, Finance (Pay Cell) Department, dated 26.08.2010, to revise the scale of pay and redesignate certain category of employees working in Public Health and Preventive Medicine Department, which included the posts mentioned aforesaid as well. As per the Government Order, the revised scale of pay



was to take notional effect from 01.01.2006 and the monetary benefits from 01.04.2013. On the basis of this Government Order, the petitioners scale of pay was revised and now, stating that the revision in pursuance of G.O.Ms.No.297 dated 22.07.2013 was wrongly applied to the petitioners and the petitioners had obtained the benefits and the same is sought to be recovered after a period of eight years from the date of retirement is erroneous.

9. Further, the petitioners have 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, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:-

(i) Recovery from employees belonging to Class III



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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."

Admittedly, the petitioners herein would come within the paragraph

(i) aforesaid. Therefore, the recovery proceedings initiated by the 2nd respondent has to be necessarily set aside.



10. Consequently, the impugned orders are quashed and the amount recovered, shall be refunded back to the petitioners and they shall be paid any arrears of salary, if payable.

With the above directions, these Writ Petitions are allowed as prayed for. No costs.

10-12-2025

Index: Yes/No
Internet: Yes
Neutral Citation: Yes/No
ssa

To

1. The Secretary,
Finance (Pension) Department,
Fort St. George, Chennai 600 009.
2. The Director Of Local Fund Audit,
Integrated Finance Department,
Offices Complex,
4th Floor, No.571, Anna Salai,
Nandhanam, Chennai-600 035.
3. The Commissioner
Cuddalore Municipality,
Cuddalore.



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