



WEB COPY

W.P.No.33891 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. 33891 of 2024
and
W.M.P.Nos. 36707 & 36708 of 2024

K.Anandan

...Petitioner

Vs.

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

2.The Principal District Judge,
Villupuram.

3.The Chief Judicial Magistrate,
Villupuram.

...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 proceedings in Office Order No.08 / 2024 dated 15.05.2024 issued by the 3rd respondent for recovery of excess pay and allowance of Rs.1,07,491/- from petitioner and quash the same and consequently direct the respondent to remit back the recovered amount to the petitioner.



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For Petitioner : Mr.S.Tamilselvan

For Respondents : Mr.N.K.Karhimathi

ORDER

Challenge is to the order dated 15.05.2024, in and by which, the salary disbursement Officer / Chief Judicial Magistrate, Villupuram had directed recovery of a sum of Rs.1,07,491/- from the petitioner in 36 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 Assistant to the post of Bench Clerk-III with effect from 01.04.2024. 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



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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 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, connected miscellaneous petitions are closed. No costs.

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

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R.SUBRAMANIAN, J.
and
G.ARUL MURUGAN, J.

KKN

To:

- 1.The Registrar General,
High Court of Madras,
Chennai - 600104.
- 2.The Principal District Judge,
Villupuram.
- 3.The Chief Judicial Magistrate,
Villupuram.

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