



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 19.11.2025

Pronounced on: 28.11.2025

CORAM

THE HONOURABLE MR.JUSTICE T. VINOD KUMAR

W.P.No.33040 of 2019

and

WMP.No.33471 of 2019

A.Margarat

... Petitioner

Vs.

1.The Government of Tamil Nadu
Rep.by Secretary to the Government
School Education Department
Fort St. George, Chennai 600 009.

2.The Secretary
Government of Tamil Nadu
Finance Department
Fort St. George, Chennai 9.

3.The Director of School Education
College Road
Chennai 600 006.

4.The District Educational Officer
Raja Street
Coimbatore 1.

5.The Branch Officer
O/o.The Accountant General (A& E, Tamil Nadu)
Teynampet
Chennai 18.



6.The Correspondent
C.S.I.Girls Higher Secondary School
Avinashi Road
Coimbatore
Pin Code: 641 018.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents 5 & 6 in relation to their proceedings issued in P24/5/12419733/ADK dated 27.03.2019 by the 5th respondent and consequential proceedings issued in No.Nil dated 06.05.2019, by the respondent No.6 as approved by the respondent No.4 in his proceedings No.OM.No.2172/A2/2019 dated -05-2019 and quash the same and issue a consequential direction to the respondents to restore the pay of petitioner at Rs.14070(9870+4200GP, in the pay band of Rs.9300-34800+4200GP with notional effect from 1-1-2006 and monetary benefit from 01.02.2011 and to grant consequential arrears of pay and pension.

For Petitioner : Mr.R.Saseetharan

For Respondents : M/s.A.Bakkiyalakshmi for R1, R3 & R4
Government Advocate
Mr. Azizullah Khan for R2
Government Advocate
Mr. Arunachalesh for
for M/s.J.Sree Vidhya
Senior Counsel for R5

**ORDER**

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Heard, Mr.R.Saseetharan, the learned counsel for the petitioner and M/s.A.Bakkiyalakshmi, learned Government Advocate for the respondents 1, 3 & 4, Mr.Azizullah Khan, learned Government Advocate for 2nd respondent and Mr.Arunachalesh for M/s.J.Sreevidya, learned Senior Counsel for 5th respondent and perused the records.

2. The case of the petitioner in brief is that she was initially appointed as Record Clerk on 06.10.1986 and was promoted as Junior Assistant on 01.09.1993; that on completion of 10 years service as Junior Assistant, she was awarded selection grade on 01.09.2003; and that as per 6th Pay Commission she was placed in the pay scale of Rs.4000-100-6000.

3. It is the further case of the petitioner that on the 7th Pay Commission recommendations being implemented with effect from 01.01.2006 under G.O.Ms.No.234 dated 01.06.2009, as no separate scale of pay for selection grade was provided, the Government issued letter dated 08.11.2010 re-fixing the pay of employees as indicated in Annexure-1 to the said letter; that as per



selection grade would be entitled to scale of pay of 9300-34800+4200GP.

6. It is the further case of the petitioner that the fifth respondent by proceedings dated 27.03.2019 addressed to the fourth respondent had claimed that the petitioner pay as on 01.01.2006 should be fixed at 9300-38400+4200GP only as per G.O.No.45 dated 10.02.2011 and that additional



fitment table as per the Government letter dated 15.09.2010 is not applicable

the case of the petitioner; and that by returning the service book directed the fourth respondent to correct pay regularization increase as per per G.O.No.45 and to re-submit the proposal for further action.

7. It is the further case of the petitioner that the fifth respondent issued the aforesaid letter which in turn is forwarded to the fourth respondent and to the sixth respondent; and that the sixth respondent on the basis of the said letter had issued the proceedings dated 06.05.2019 seeking to recover an amount of Rs.1,71,369/- as excess pay drawn for the period from 01.02.2011 to 30.04.2019 from the death-cum-retirement gratuity of the petitioner and also the pensionary benefit that the petitioner would be entitled to draw post retirement on 30th June, 2019.

8. It is the further case of the petitioner that since, the petitioner was working as Junior Assistant she falls in the “C” category employee and thus, no recovery of any alleged excess payment can be made as the said payment was not made to the petitioner on account of any misrepresentation by her and also the revised pay fixation is under taken with effect from 01.01.2006 onwards, is contrary to the Government Order vide G.O.Ms.No.234 dated 01.06.2009 and Rule 4(I)(iii) of the Tamil Nadu Revised Pay Scale Rules, 2009.



9. Contending as above, the petitioner seeks for quashing the proceedings of the fifth respondent dated 27.03.2019 and consequential proceedings of the sixth respondent as forwarded by the fourth respondent in proceedings No.OM.No.2172/A2/2019 dated -05-2019.

10. Respondent Nos.4 & 5 filed separate counter affidavits.

11. The fifth respondent by the counter affidavit contended that the petitioner is not entitled to claim the benefit of additional fitment table issued under cover of letter dated 15.09.2010; and that the petitioner last drawn pay of Rs.58,600/- which was arrived at by fixing her revised pay at Rs.9870+4200 as Grade Pay(GP) as on 01.01.2006 notionally with monetary benefit with effect from 01.02.2011 (in terms of G.O.Ms.No.45 dated 10.02.2011) and while fixing the petitioner revised scale of pay, it was found the petitioner having drawn excess pay of Rs.1,71,369/- for the period from 01.02.2011 to 30.04.2019 and thus, the aforesaid excess pay drawn was directed to be recovered from the death-cum-retirement gratuity of the petitioner.



12. The respondents further contended that since, the petitioner was given monetary benefit of pay revision from 01.02.2011 to 30.04.2019, the pay of the petitioner was re-fixed as per the pay revision of the year 2017 under GO.Ms.No.303 dated 11.10.2017 by giving the benefit from 01.10.2017 onwards.

13. On behalf of the respondents it is also contended that since, the petitioner pay scale has to be fixed as per the GO.Ms.No.45, the pay of the petitioner was revised and re-fixed as per pay revision 2017 and as such, there is no illegality or irregularity in the pay revision under taken by the aforesaid proceedings.

14. On behalf of the respondents it is further contended that the petitioner having enjoyed the higher pay band and again claiming the fixation of higher pay by virtue of Rule 4(I) (iii) of GO.Ms.No.234 under the guise of bunching of pay, had availed double benefits which was sought to be corrected by the respondents by ordering recovery and re-fixation.



15. Contending as above, the respondents seek for dismissal of the W
Petition.

16. I have taken note of the respective contentions urged.

17. At the outset, the issue of recovery of excess payment made to pay the employee particularly falling in C & D category is concerned, the same is settled by the Authoritative at pronouncement of the Hon'ble Apex Court in the case of *State of Punjab and others, Vs. Rafiq Masih (White Washers) and others* reported in *2015 (4) SCC 334*, wherein the Hon'ble Apex Court had held that if the excess payment had been made not on account of any misrepresentation of the employee, the said excess pay amount cannot be recovered.

18. Since, the petitioner in the present case is working as Junior Assistant she would fall under the category of category "C" Employee. Further, as, it is not the case of the respondents that the excess pay is drawn by the petitioner on account of any misrepresentation by her, the principle as laid down by the Hon'ble Apex Court in *State of Punjab and others, Vs. Rafiq Masih (White Washers) and other (cited supra)* would squarely be applicable to the case of the petitioner.



19. Accordingly, this Court has no hesitation to hold that the respondents having allowed the petitioner to draw the alleged excess payment for the period from 01.02.2011 to 30.04.2019 cannot recover the same.

20. Insofar as revised pay fixation is concerned, neither the fifth respondent nor the sixth respondent can resort to such revision of pay without issuing any notice to the petitioner.

21. Since, it is not shown to this Court of the petitioner being issued with any notice before resorting to downward revision of her pay on the alleged ground as mentioned in the impugned proceedings, this Court is of the view that such an exercise under taken by the respondents is in clear violation of principles of natural justice and cannot be sustained.

22. Accordingly, the Writ Petition is allowed and impugned proceedings dated 27.03.2019 to the extent of recovery of excess pay drawn by the petitioner for the period from 01.02.2011 to 30.04.2019 is set aside. Insofar as the revision of pay under the impugned proceedings is concerned, the matter is remitted back to the respondents 5 & 6 with a direction to the said respondents



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to issue notice to the petitioner, consider her explanation if any, submitted

passing a reasoned order in accordance with law and communicate the same to

the petitioner before undertaking the aforesaid revision. Subject to above

direction, the Writ Petition is disposed of. No order as to costs. Consequently,

connected Miscellaneous Petition is closed.

28.11.2025

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

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2.The Secretary
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T. VINOD KUMAR, J.

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**Pre-Delivery Order in
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