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W.P.No.32697 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.32697 of 2023

and

W.M.P.No.32308 of 2023

1. A. Nataraj
2. A.M.Jagan
3. Elam Selvan
- 4.C.Kodisekar
- 5.T.Somasundaram
- 6.K.Mandiandan

... Petitioners

Vs.

1. The Director,
Tamil Nadu Fire Service,
No.17, Rukmani Lakshmipathi Road,
Egmore, Chennai 600 008.
2. The District Fire Service Officer,
Thirupur,
Thirupur District

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records pertaining to the order passed by the 2nd respondent herein to recover the increment from the petitioners salary dated



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Na.Ka.No.6867/A/2022, dated 21.08.2023 and quash the same as illegal and arbitrary.

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For Petitioners : Mr.K.Srinivasan

For Respondents : Ms.S.Anitha,
Special Government Pleader

ORDER

The writ petition has been filed seeking to call for the records pertaining to the order passed by the 2nd respondent in Na.Ka.No.6867/A/2022 dated 21.08.2023 to recover the increment from the petitioners' salary and to quash the same as illegal and arbitrary.

2. It is the case of the petitioners that they joined the fire service in the year 2001 and have been continuously working without committing any misconduct. Considering the petitioners' skill, efficient and dedicated service, the respondent-Department granted them an increment on 11.10.2017 as per G.O.No.303 Finance Payment Department and G.O.(Ms) No.777, Home (Police-XVII) Department, dated 23.07.2018. Accordingly, the petitioners' salary was increased



to Rs.31,300/- and the increment was given effect from 01.12.2017.

However, their increment date was later fixed on 01.10.2018. The petitioners have been receiving the revised salary for the past five years. However, to their shock and surprise, the 2nd respondent cancelled the increment and ordered recovery of the amount already paid to the petitioners by the impugned order dated 21.08.2023. The petitioners contend that the said order is arbitrary and illegal. Hence, the present writ petition has been filed.

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

4. The Hon'ble Supreme Court in the judgement reported in **2015 4 SCC 334 State of Punjab & Ors vs. Rafiq Masih (White Washer) and others** had laid down certain guidelines for recovery by the employers and had given the contingencies where recovery is impermissible 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'



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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.*

5. 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).



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6. Considering the fact that the petitioners fall under category 1 of the above guidelines, the Writ Petition is allowed. The order dated 21.08.2023 passed by the 2nd respondent is set aside. If any amount already recovered by the respondents shall be refunded to the petitioners within a period of one month from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

11.12.2025

(srn)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

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