



W.P.No.41462 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No. 41462 of 2025
and
W.M.P.No.46422 of 2025**

G.Murugan

... Petitioner

Vs.

1.The District Fire & Rescue Service Officer,
No.17, Rukmani Lakshmipathy Road,
Egmore, Chennai – 600 008.

2.The District Fire Service Officer,
Krishnagiri,
Krishnagiri 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 second respondent in Na.Ka.No.3079/M2/2025 dated 16.10.2025 and quash the same as illegal and arbitrary.

For Petitioner : Mr.K.Srinivasan

For Respondents : Mr.R.U.Dinesh Rajkumar, AGP



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ORDER

The orders passed by the second respondent in in Na.Ka.No.3079/M2/2025 dated 16.10.2025, is put under challenge in the present Writ Petition.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing on behalf of the respondents.

3. The petitioner was appointed as Fireman on 01.12.2002 and was promoted as Upgraded Leading Fireman on 01.10.2017. He was given incentive increment vide G.O.Ms.No.777, Home (Police-XVII) Department, dated 23.07.2018. Thereafter, by proceedings dated 16.10.2025, the Department has ordered to revise the pay scale stating that the pay fixation along with the increment has been wrongly fixed for the period from 01.12.2017 and accordingly, the salary of the petitioner was revised and re-fixed.



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4. However, now the order dated 16.10.2025 has been issued for recovering the excess amount drawn by the petitioner. At the time when the pay was re-fixed, the petitioner was not given with any proceedings for recovery. Now, after several years, the present order has been issued for recovery without putting the petitioner on notice. Challenging the same, the petitioner is before this Court.

5. The Hon-ble Supreme Court in the case of *State of Punjab and others vs. Rafiq Masih (White Washer)* reported in *AIR 2015 SC 696* had held that recovery of excess payment wrongly made by the Department to Group-C and Group-D employees is impermissible in law. In similar circumstances, this Court in *W.P.No.1122 of 2020 and batch dated 23.11.2023 [M.Santha vs. The Joint Director (Employment), O/o. Directorate of Employment and Training, Guindy, Chennai - 600 032 and batch]*, by invoking ‘*White Washer*’ case, has observed thus.

“15.Mr.J.Pooventhera Rajan, learned counsel for the petitioner cited the decision rendered in “White Washers” case to canvas his point that the stipulation made in White Washers case is applicable to the petitioners and even for the sake of



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argument, if the payment made to the petitioners are considered excess, it cannot be recovered. In paragraph 12 of the White Washers case the following summary has been given:

“12. 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 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



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outweigh the equitable balance of the employer-s right to recover.”

16.No doubt, the Petitioner who are working as Junior Assistants would fall under Class IV employees and some of them had retired from service and the recovery is sought to be made after five years. So the conditions (i) to (iii) are squarely applicable to facts of the case. However, in the case on hand, it is not excess payment but the payment due to be paid to the Petitioners, and hence it cannot even be considered as excess payment and hence no need to give the concession.

17.Because there is a conceivable difference between concession and entitlement. The -entitlement- represents a right which can be exercised or claimed and the concession is a relaxation or liberty given by someone at his discretion, and hence the receiver cannot have any control or claim over concession. What is being enjoyed by the Petitioners are only entitlement derived from G.O.(Ms)No.152 (Handloom, handicrafts, Textiles and Khadi (F1) Department) dated 12.07.2012. Hence the impugned order issued for recovery of the payment already made and to stop making further payment is due to misinterpretation and misunderstanding of the scope of the above Government Order.

18.In view of the above stated reasons, the impugned orders in the respect Writ Petitions are set aside and these Writ



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Petitions are allowed. No costs. Consequently, connected

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Miscellaneous Petitions are closed.”

6. In the case on hand, the petitioner was appointed as Fireman and therefore, he come under Group ‘C’ employee. Further, the recovery is sought to be made after several years. In such circumstances, the ‘**White Washer**’ case cited above is squarely applicable to the facts of the present case. Since the recovery is impermissible in law as per the decision cited supra, the recovery is set aside.

7. In view of the same, the Writ Petition is allowed and the impugned orders of the second respondent is quashed. Consequently, connected Miscellaneous Petition is closed. There shall be no orders as to costs.

09.12.2025

NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To

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