



W.P.No.46470 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE SHAMIM AHMED

W.P.No.46470 of 2025

V.Punitha .. Petitioner
Vs.

1. The Registrar General
High Court of Madras
Chennai – 600 104.

2. The Subordinate Judge
Subordinate Court, Polur
Thiruvannamalai District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking a writ of certiorari, calling for the entire records relating to the impugned order dated 04.11.2025 made in Dis.No.1873 of 2025 on the file of the second respondent herein and quash the same.

For the Petitioner : Mr.M.Sathyamoorthy

For the Respondents : Mr.A.Durai Eswar

ORDER

(Order of the Court was made by R.SURESH KUMAR, J.)

Prayer sought herein is for a writ of certiorari, calling for the entire records relating to the impugned order dated 04.11.2025 made in Dis.No.1873 of 2025 on the file of the second respondent herein and quash the same.



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2. With the consent of the learned counsel appearing for both sides, this writ petition is being disposed of at the admission stage itself.

3. By the impugned order dated 04.11.2025, passed by the second respondent, recovery proceedings have been initiated to recover the alleged excess amount paid in favour of the writ petitioner. However, the fact remains that, by the order dated 09.02.2024, the petitioner had been permitted to retire on superannuation with effect from 29.02.2024. The relevant portion of the order reads thus:-

"ORDER:

It is hereby ordered that Tmt.V.Punitha, Junior Assistant, Sub Court, Polur is permitted to retire from service under FR 56, on her reaching the date of superannuation on the Afternoon of 29.02.2024."

4. Once the petitioner has been permitted to retire and she has peacefully retired from Office from 01.03.2024, the petitioner is no more an employee of the respondents and there is no employee-employer relationship. When that being the position, whether such recovery could be made possible against the petitioner, as intended through the order impugned, is the question.



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5. In this regard, the law is well settled and the issue is no more *res integra* in view of the law having been declared by the Hon'ble Supreme Court of India in the case of **State Of Punjab & Ors vs Rafiq Masih (White Washer)**¹, where, paragraph 12 reads thus:-

"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

¹ AIR 2015 SUPREME COURT 696



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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"

6. In view of the aforesaid situations, where one of such situations is that, the retired employee cannot be recovered for any alleged excess payment if it is made during the service of the employee concerned. As such situation is one of the situations, the recovery is impermissible in law, as declared by the Hon'ble Supreme Court of India. Unless and until the money paid be taken by the employee on the basis of fraud or misrepresentation, it cannot be recovered.



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7. In that view of the matter, the order impugned cannot sustain in the legal scrutiny, as a result of which, we are inclined to set aside the same and accordingly, the impugned order is set aside and the writ petition is allowed.

(R.S.K., J.) (S.S.A., J.)
09.12.2025

Speaking Order/Non-Speaking Order
Neutral Citation:Yes/No
Internet:Yes/No
Index:Yes/No

(drm)

To:

1. The Registrar General
High Court of Madras
Chennai – 600 104.
2. The Subordinate Judge
Subordinate Court, Polur
Thiruvannamalai District.



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R. SURESH KUMAR, J.
AND
SHAMIM AHMED, J.

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