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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-11-2025

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THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

WP No. 46231 of 2025

and

WMP No.51558 of 2025

M.Palanisamy

Petitioner(s)

Vs

1. The Principal Accountant General of
Tamil Nadu (A & E)
361, Anna Salai, Chennai-600 018.

2.The Director
Directorate of Public Health and
Preventive Medicine, DMS Campus,
Teynampet, Chennai- 600006.

3.The Designated Officer,
Food Safety Department,
Vellore District.

Respondent(s)

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent vide his proceedings R.No.12/A1/ 2025 dated 17.11.2025 and quash the same and consequently direct the respondents to release the retirement and pension benefits immediately without recovering any amount from it.

For Petitioner(s): Mr.Tamizhanban V.

For Respondent (s): Mr.L.Muralikrishnan
Standing Counsel for R1
Mr.M.Bindran AGP for R2 & R3

**ORDER**

This Writ Petition has been filed to call for the records of the third respondent vide his proceedings R.No.12/A1/ 2025 dated 17.11.2025 and quash the same and consequently, direct the respondents to release the retirement and pension benefits immediately without recovering any amount from it.

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

3. The petitioner was appointed as a Leprosy Inspector and his service was regularized with effect from 25.05.1989. Thereafter, he was absorbed from the Leprosy Department by the second respondent and he had joined as a Health Inspector Grade I-B, on 01.08.1997. Thereafter, his pay scale was fixed as 5300-150-8300 as per the communication dated 01.07.1999 under Rule 23 of the Fundamental Rules, with effect from 25.05.1999. Due to superannuation, he had retired from service on 30.06.2025 as a Food Safety Officer. Through on-line, the pension proposal of the petitioner was submitted before the first respondent. However, the first respondent by noting the discrepancies regarding the wrong fixation of pay in the year 1998, further stated that as per G.O.No.110, 5% personal pay has to be merged in the pre-revised scale of Health Inspector Grade I and not in the revised scale of Health Inspector Grade



I. It has to be fixed as per Fundamental Rule 23 at the same level if available or in the next level. Therefore, the pay to be fixed at Rs.5,125/- with effect from 01.09.1998 and excess drawn pay and allowance may be reviewed.

4. The same issue has already been dealt with by the Hon'ble Supreme Court of India reported in **2015 4 SCC 334**, in the case of ***State of Punjab Vs Rafiq Masih (White Washer)*** and held that the recovery of any excess payment made, owing to the mistake of the Department for over a period of five years cannot be made. Following the said order, the Government also issued G.O.Ms.No.286, Finance (Pension) Department dated 28.08.2018, which bars any recovery from retired employees or recovery from any employee, the excess payment has been made for a period in excess of five years before the order of recovery is issued.

5. In the case on hand, the excess payment was not made by any fraudulent action or by any false representation by the petitioner. The alleged excess payment was made owing to the mistake of the Department for over a period of five years. After a period of 27 years, now, the impugned order has been passed by the third respondent to recover the excess amount.

6. In view of the above, the order passed by the third respondent cannot be sustained and is liable to be quashed. Accordingly, the order passed by the



third respondent vide proceedings R.No.12/A1/ 2025 dated 17.11.2025 is hereby quashed.

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7. Accordingly, this writ petition stands allowed. Consequently, connected Miscellaneous petition is closed. No costs.

26-11-2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To

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