



W.P(MD)No.5964 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.P(MD)No.5964 of 2025
and
W.M.P(MD)Nos.4355 & 4357 of 2025**

S.Packiyalakshmi

... Petitioner

vs.

1.The Deputy Secretary,
Home (Courts V) Department,
Fort St. George,
Secretariat,
Chennai – 600 009.

2.The Principal District and Sessions Judge,
Srivilliputhur,
Virudhunagar 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 impugned order passed by the first respondent in letter No.94577/Cts-V/2011-3, dated 29.03.2012 and the consequential impugned order passed by the second respondent dated 06.12.2021 and quash the same.

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For Petitioner : Mr.R.V.Rajkumar

For R – 1 : Mr.J.Ashok
Additional Government Pleader

For R – 2 : Mr.D.Venkatesh
Standing Counsel

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

The order of recovery of excess salary paid to the petitioner issued by the second respondent in the proceedings dated 06.12.2021 is sought to be assailed in the present writ proceedings.

2.The petitioner joined as a Copyist and thereafter served as a Typist, after merger of the posts. She retired from service on 31.05.2024 on attaining the age of superannuation. While she was in service, based on the audit objections, a notice was issued to the petitioner stating why excess salary paid to her as per the audit report should not be recovered. The petitioner submitted her explanations. Not accepting the explanations, the learned Principal District and Sessions Judge, Virudhunagar passed the impugned order of recovery in respect of the alleged excess salary paid in between the year 2015 and 2018.

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3.The learned counsel appearing for the petitioner would submit that the petitioner was holding the post of Typist. She has not misrepresented nor provided any false information for refixation of her salary. The refixation was done by the establishment based on the applicable Pay Rules and Government Orders in force. Thus, the refixation and recovery are bad in law.

4.The learned Additional Government Pleader appearing for the first respondent and the learned standing counsel appearing for the second respondent would oppose by stating that the petitioner is not entitled to receive a salary over and above her entitlement. The audit authorities found that excess salary was paid for which the petitioner was not eligible and therefore, recovery was imposed based on the audit objections. An opportunity was given to the petitioner to submit her explanation and thus, the Writ Petition is to be rejected.

5.This Court is of the considered view that the respondents have not established that there was a misrepresentation on the part of the petitioner while refixing her pay as per the pay Rules and Government Orders in force. In the absence of any misrepresentation or undertaking on the part of the employee,



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excess salary even if paid mistakenly at the instance of the establishment, the same cannot be recovered after a lapse of many years, since such recovery would result in great hardship to the employee. The petitioner was holding the post of Group C and therefore, sudden recovery would affect her normal life. More so, the petitioner reached the age of superannuation and retired from service.

6.The Courts have held that recovery from the retired employees is impermissible. Though the order of recovery was passed in the present case when the petitioner was in service, the alleged excess salary was paid between the year 2015 and 2018 and the said recovery alone cannot be made at this length of time. However, the competent authorities are bound to rectify the errors in fixation and fix the pay as applicable to the petitioner as per the pay Rules and Government Orders in force.

7.It is needless to state that no Government employee is entitled to get excess pay over and above her entitlement which would result in unjust gain. Salary is paid from the tax payers money and thus, it is to be made in accordance with the Pay Rules and Government Orders in force.



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8.In the present case, the petitioner is not responsible for excess pay made from the year 2015 to 2018 and therefore, recovery at this length would result in hardship.

9.In view of the facts and circumstances, the recovery of excess salary paid to the petitioner alone is set aside. Refixation of pay is directed to be done by the respondents in accordance with Pay Rules and Government Orders as applicable to the petitioner and consequently, her pension and other consequential benefits also to be fixed as per Pay Rules and Government Orders in force. The respondents are directed to settle all the retirement and other terminal benefits due to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

10.In fine, this Writ Petition stands allowed in part. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

[S.M.S.,J.] & [A.D.M.C.,J.]
10.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes

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To

- 1.The Deputy Secretary,
Home (Courts V) Department,
Fort St. George,
Secretariat,
Chennai – 600 009.

- 2.The Principal District and Sessions Judge,
Srivilliputhur,
Virudhunagar District.



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S.M.SUBRAMANIAM, J.
and
DR.A.D.MARIA CLETE, J.

ps

ORDER MADE IN
W.P(MD)No.5964 of 2025

DATED : 10.06.2025