BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)No.1653 of 2025
and
C.M.P.(MD)No.9261 of 2025

1.The Government of Tamil Nadu,
Represented by its Principal Secretary,
Finance Department, Fort St.George,
Chennai – 600 009.

2.The Principal Secretary / Commissioner of
Treasuries and Accounts,
3rd Floor, Integrated Office Complex
for Finance Department,
Veterinary Hospital Campus, Anna Salai,
Nandanam, Chennai – 35.

3.The Special Secretary,
Government of Tamil Nadu,
Finance Department,
Secretariat, Fort St.George,
Chennai.

4.The Director,
Directorate of Animal Husbandry
and Veterinary Service,
571, Anna Road, Nandanam, Chennai – 35.

5.The Chief Accounts Officer,
O/o. Commissionerate of Treasuries and Accounts,
CPC Cell, Government Data Centre,
Perasiriyar, K.Anbazhagan Maaligai,
Nandanam, Chennai – 35.

6.The Deputy Director,
District Treasury,
Theni District.

7.The District Collector,
Theni District, Theni.

8.The Assistant Director,
Department of Animal Husbandry
and Veterinary Service,
Uthamapalayam Sub Division – Chinamannur,
Theni District.

9.The Assistant Director,
Department of Animal Husbandry and Veterinary Service,
Thirumangalam Division,
Madurai District. ... Appellants

Vs.

1.A.R.R.Bapuji

2.Kamesh Kannan

3.T.Renuga Devi

4.T.Rajesh

5.VIjayabaskar Kandeepan

6.K.Selvam

7.Rajmohan Paramasivam ... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD).No.10564 of 2024 dated 28.08.2024 on the file of this Court.

For Appellants : Mr.A.Kannan,
Addl. Government Pleader.

For Respondents : Mr.S.M.Ramasiva

JUDGMENT
(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.It is not in dispute that the respondents herein are employees under Rule 10(a)(i) of the General Rules of the Tamil Nadu State and Subordinate Service Rules. Due to inadvertence, a portion of their salary was deducted towards CPS contribution. Subsequently, the employer realized that the writ petitioners are not eligible to come under CPS scheme. Therefore, further deduction from the writ petitioners' salary was stopped. That led to the filing of batch of writ petitions. The learned Single Judge vide order 28.08.2024 in W.P.(MD)No.10564 of

2024 etc batch allowed the writ petitions. Questioning the order made in the case of the respondents herein, this writ appeal has been filed.

3.When the matter was taken up for hearing, the learned Additional Government Pleader drew our attention to the judgment of the Hon'ble Division dated 05.03.2025 made in W.A.(MD)Nos.186 to 189 and 203 of 2025. The said writ appeals arose out of the order dated 28.08.2024 which is impugned in this writ appeal. Paragraph Nos.9 and 10 of the said judgment of the Hon'ble Division Bench reads as follows:-

> *"9. This Court is of the considered opinion when the temporary employee is not entitled to CPS, then the deduction made from the employee contribution ought to be returned and the government had rightly returned along with interest. But when the employee is not entitled to CPS scheme, then the employee is not entitled to the government contribution. Further the CPS amount would be paid at the time of retirement on superannuation. Until such time the said government contribution would be in the said account only. When the CPS is cancelled, then the employee contribution was returned with interest and the government contribution was taken by the government. In such circumstances, no right accrued to the employee at all. Therefore, claiming the government contribution*

along with interest is unjust enrichment. And also the said amount is illegal in the hands of temporary employees, hence the same cannot be claimed by the writ petitioners. The judgment rendered in Rafiq Masih has no application in the present facts and circumstances of the case. Therefore, the order passed by the Writ Court is incorrect and the same is liable to be set aside.

10. With the above said observations, the writ appeals are allowed and the orders passed in the writ petitions are set aside. No costs. Consequently, connected miscellaneous petitions are closed."

4.The case on hand is absolutely identical. Respectfully following the earlier judgment dated 05.03.2025, the order impugned in this writ appeal is set aside and the writ appeal is allowed on the same lines. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.,) & (K.R.S. J.,)
23.06.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.
and
K.RAJASEKAR, J.

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