



WP(MD). No.10211 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 09/04/2025

CORAM

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE P.B.BALAJI

W.P.(MD)No.10211 of 2024

V.Sekar

... Petitioner

Vs

**1. The Principal District Judge,
Ramanathapuram District,
Ramanathapuram.**

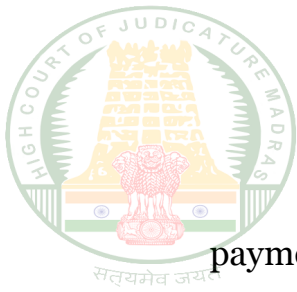
**2. District Munsif Cum Judicial Magistrate, Kamudhi,
Office of the District Munsif Cum Judicial Magistrate, Kamudhi,
Kamuthi,
Ramanathapuram District.**

**3. The Treasury Officer,
Office of the Treasury Officer,
Ramanathapuram District.**

**4. The Sub Treasury Officer,
Office of the Sub Treasury Officer,
Ramanathapuram District.**

... Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in proceeding No.Nil dated 12.07.2023, set aside the same and further direct the respondent to pay the sum of Rs.6,02,837/- to the petitioner which is covered as excess



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payment within the time framed stipulated by the Honourable Court

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For Petitioner : Mr.P.Pethu Rajesh

For Respondents : Mr.Mahaboob Athiff for R1 &R2

Mr.SRA.Ramachandran
Addl. Government Pleader for R3&R4

ORDER

(Order of the Court was made by
the Hon'ble the Chief Justice)

Counsel for petitioner states the issue in this matter is covered inasmuch as excess payment made to Group C or Group D employees cannot be recovered unless there is a fraud involved. Admittedly, petitioner was Group D employee and has now retired.

2. Mr.P.Pethu Rajesh relying on a judgment of the Apex Court in ***State of Punjab and others v. Rafiq Masih (White Washer)***¹ submitted that the recovery could not have been made because petitioner is a retired employee, excess payment recovered is for a period in excess of five years and petitioner is a Class IV and Group D employee.

¹ AIR 2015 SC 696



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3. Shri.Mahaboob Athiff appearing for respondents 1 and 2 in fairness agrees that petitioner's case will be covered under Clause (i), (ii) and (iii) of Paragraph 12 of the judgment of the Apex Court in *Rafiq Masih* (supra).

4. For easy reference, Paragraph 12 of the judgment is reproduced as under:

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



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5. In the circumstances, the relief as sought for in the prayer is granted. Respondents to refund to petitioner a sum of Rs.6,02,837/- within four weeks.

6. We clarify petitioner need not make any separate application for refund. This order itself shall be acted upon.

7. Petition is disposed. There shall be no order as to costs.

(K.R.SHRIRAM, C.J.)

(P.B.BALAJI, J.)

09.04.2025

NCC : Yes/No
Index : Yes/No

RR



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P.B.BALAJI, J.

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**ORDER
IN**

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