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W.P.(MD) No.12480 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2025

CORAM:

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

**W.P.(MD) No.12480 of 2025
and
W.M.P.(MD) Nos.9088 & 9090 of 2025**

J.Selvaraj

... Petitioner

-VS-

- 1.The Registrar General
Madras High Court, Chennai-104
- 2.The Principal District Judge
Thanjavur District, Thanjavur
- 3.The Principal Subordinate Judge
Kumbakonam, Thanjavur
- 4.The Chief Accountant Officer
Internal Audit Wing
Madurai Bench of Madras High Court
Madurai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records of the impugned order in Proceeding Order No.16/2024 dated 18.03.2024 passed by the third



W.P.(MD) No.12480 of 2025

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respondent and quash the same as illegal and consequently direct the respondents to disburse the withheld amount of Rs.1,18,575/- (Rupees one lakh eighteen thousand five hundred and seventy five only) and other terminal and pension benefits without any deduction to the petitioner.

For Petitioner : Mr.M.Pozhilan
for M/s.C.Arulvadi vel Associates

For Respondents : Mr.N.Tamilmani

ORDER

[Order of the Court was made by S.M.SUBRAMANIAM, J.]

The order of recovery of excess payment made to the petitioner in lump sum from his total death-cum-retirement gratuity, dated 18.03.2024, is under challenge in this writ petitioner.

2. The petitioner was holding the post of Junior Bailiff and retired from service on 29.02.2024 on attaining the age of superannuation. After his retirement, the impugned order of recovery has been issued *vide* proceedings dated 18.03.2024 stating that excess payment was made over and above his entitlements on account of wrong fixation of pay, which has resulted in filing of the present writ petition.



W.P.(MD) No.12480 of 2025

WEB COPY

3. A perusal of the impugned order reveals that there is no show cause notice issued to the petitioner before imposing the recovery. Thus, the impugned order is in violation of the principles of natural justice. To recover excess payment, if any, the authorities competent are bound to follow the principles of natural justice.

4. In the present case, the respondents could not establish that revision of pay was fixed based on the misrepresentation of the petitioner or the petitioner has given an undertaking during re-fixation of pay. In the absence of any such undertaking or misrepresentation, excess salary paid to an employee cannot be recovered after his retirement or after a prolonged period. Such recovery would cause hardship to the employees. Any action affecting the service rights or conditions of an employee must be done only after following the principles of natural justice.

5. The Honourable Supreme Court of India has also, time and again, reiterated that recovery of excess payment cannot be made from the retired employees.



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W.P.(MD) No.12480 of 2025

6. However, the respondents / employers, are empowered to correct the mistake crept in during fixation of pay.

7. For all these reasons, the impugned order insofar as re-fixation of pay, as per the Rules and Government Orders in force, is confirmed and insofar as recovery of excess pay alone, the same is set aside. The amount already recovered from the petitioner is directed to be repaid to him within a period of six weeks from the date of receipt of a copy of this order. However, the respondents are directed to verify the correctness of the revision of pay granted to the petitioner and continue to pay his pension as per the Rules in force.

8. Accordingly, this writ petition is partly-allowed. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.]

[A.D.M.C., J.]

16.06.2025

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

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Page 4 of 6



W.P.(MD) No.12480 of 2025

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