



W.P.(MD)No.21954 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.08.2025**

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.(MD) No.21954 of 2025
and
W.M.P(MD)No.17038 of 2025

S.Senthilkumar

: Petitioner

Vs.

1. The Director,
Directorate of Municipal Administration,
75, Urban Administrative Building,
Santhome High Road,
MRC Nagar, Raja Annamalaipuram,
Chennai – 600 028.

2. The Commissioner,
The Kumbakonam City Corporation,
Kumbakonam,
Thanjavur District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent's impugned order in Na.Ka.No. 1438/2021/E1 dated 26.06.2025 quash the same as devoid of merits and consequently directing respondents to grant entire sanctioned service benefits as per their order in Na.Ka.No.1438/2022/E1 dated 12.03.2024 by considering the representation dated 24.05.2025 and for such other reliefs, within the period stipulated by this Court.



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For Petitioner : Mr.A.Haja Mohideen
For Respondents : Mr.K.Balasubramanian (R1)
Special Government Pleader
: Mr.B.Jameelarasu (R2)

ORDER

This writ petition has been filed challenging the order of the 2nd respondent in Na.Ka.No.1438/2021/E1 dated 26.06.2025 and consequently to direct the respondents to grant entire sanctioned service benefits as per their order in Na.Ka.No.1438/2022/E1 dated 12.03.2024 by considering the representation dated 24.05.2025.

2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The learned counsel appearing for the petitioner would submit that the petitioner challenges the recovery order made by the second respondent stating there was an excess salary paid to the petitioner. He also relied upon a judgment of the Hon'ble Supreme Court of India, in



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the case of ***State of Punjab and others vs. Rafiq Masih (White Washer)***
reported in ***AIR 2015 SC 696***.

4. The Hon'ble Supreme Court of India, in the case of ***State of Punjab and others vs. Rafiq Masih (White Washer)*** reported in ***AIR 2015 SC 696*** had held that the recovery of excess payment wrongly made by the Department to the retired employees is impermissible in certain circumstances. The relevant paragraphs are extracted hereunder:-

"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



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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.””

5. In the case on hand, the petitioner is coming under clause (i) category supra. In such circumstances, the '**White Washer**' case cited above is squarely applicable to the facts of the present case.

6. Furthermore, the hardship caused to the employees due to the recovery would be harsher than the employer's right to recover. The employees are not at fault and they are noway responsible for receiving the excess payment. The employees have not suppressed any material facts and induced the employer to grant him excess pay. It is the employer, who is at fault and who has been sleeping for many years without fixing his own mistake, has issued order for recovery. As the impugned recovery is impermissible as per the settled legal position referred above, the impugned order is liable to be set aside.



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7. In the result, this writ petition is allowed and the order of the second respondent dated 26.06.2025 is quashed in respect of recovery alone and revision of pay fixed by the Corporation is confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

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(2/2)

Index : Yes / No
NCC : Yes / No
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To:-

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Santhome High Road,
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M.DHANDAPANI, J.

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