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W.P.(MD) No.22200 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.22200 of 2021

A.Mookammal

... Petitioner

-vs-

1.The District Collector
Madurai

2.The Director
Internal Audit and Statutory Department
Audit Office
Kuralagam 4th Floor
Chennai

3.The Commissioner
Panchayat Union
Kottampatti
Madurai District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned proceedings issued by the second respondent in Ni.Mu.No. 7877/Oo.Vo.Vo.Sa.(2)/2020 dated 25.08.2020 and consequential proceedings issued by the 3rd respondent in his proceedings Na.Ka.No.2502/2012A1(I), Na.Ka.No.2502/2012/A1(II) and Na.Ka.No.2502/2012/A1(III) dated



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02.02.2021 and quash the same and consequently directing the respondents to disburse the family pension to the petitioner.

For Petitioner : Mr.N.Mariappan

For Respondents : Mr.A.Baskaran
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings, dated 25.08.2020, issued by the second respondent and the consequential proceedings, dated 02.02.2021, issued by the third respondent.

2. The petitioner is the wife of Late.Alagan, who was working in the third respondent – Panchayat Union. He died on 05.09.2012, while he was in service. The salary of the petitioner's husband was revised in the year 2007, under which, his salary was reduced. The petitioner's husband was also continuing to receive the salary as per the revision till the date of his death. On account of the excess payments made to the petitioner's husband prior to 2007, the impugned order dated 25.08.2020 came to be passed by the second respondent ordering for recovery of the excess payment. In view of the revision of the petitioner's husband's pay in the year 2007, there became a



W.P.(MD) No.22200 of 2021

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necessity for the third respondent to pass the consequential impugned order dated 02.02.2021 revising the family pension amount. The petitioner has challenged both the orders in this writ petition.

3. Insofar as the recovery of excess payments made to the petitioner's husband is concerned, the same cannot be exercised by the respondents in view of the fact that the petitioner's husband already retired from service as early as on 05.09.2012 itself. The law is now well-settled by various decisions rendered by this Court by following the decision rendered by the Honourable Supreme Court in the case of ***State of Punjab & Ors vs. Rafiq Masih (White Washer)***, reported in ***AIR 2015 SC 696***, wherein, it has been held that recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued, is legally impermissible. In the instant case, the impugned order has been passed after five years from the date of the retirement of the petitioner's husband i.e., on 05.09.2012. Therefore, the impugned order dated 25.08.2020, passed by second respondent, has to be quashed. However, the consequential impugned order dated 02.02.2021, passed by the third respondent, cannot be interfered with due to the fact the pay revision was



W.P.(MD) No.22200 of 2021

WEB COPY

made by the respondents in the year 2007 itself and the said pay revision order was also not challenged by the petitioner's husband, while he was alive and was in service. In fact, this writ petition has been filed only by the wife of the employee that too only in the year 2021. Even though the petitioner claims in this writ petition that she became aware of the pay revision order of the year 2007 only now, the said statement made by the petitioner cannot be believed and accepted, in view of the fact that the petitioner's husband, while in service, would have known about the said fact and could have challenged the same by filing a similar writ petition.

4. Accordingly, this writ petition is partly allowed by quashing the impugned order, dated 25.08.2020, passed by the second respondent and insofar as the consequential impugned order dated 02.02.2021, passed by the third respondent is concerned, the same is not interfered with by this Court. No costs.

17.10.2025

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

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Page 4 of 6



W.P.(MD) No.22200 of 2021

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ABDUL QUDDHOSE, J.

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