

W.P.(MD)No.22531 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2025

CORAM:

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

W.P.(MD) No.22531 of 2025
and
W.M.P.(MD) No.17651 of 2025

Marikannu

: Petitioner

Vs.

1. The Accountant General,
Teynampet,
Chennai - 600 018.

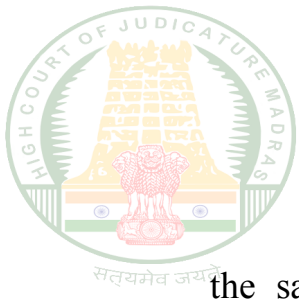
2. The Revenue Divisional Officer,
Tirunelveli Division,
Tirunelveli.

3. The Tahsildar,
Tirunelveli Taluk,
Tirunelveli.

4. The Treasury Officer,
District Treasury,
Tirunelveli.

: 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 pertaining to the impugned order dated 30.05.2023 passed by the 2nd respondent in his proceedings in Na.Ka.No.A7/2741/2022-17, quash



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the same and consequently direct the respondents to refund amount which was recovered from the petitioner from May 2023.

For Petitioner : Mr.V.Sasi Kumar

For Respondent : Mr.K.Balasubramanian (R2 to R4)

Special Government Pleader

Ms.S.Mahalakshmi (R1)

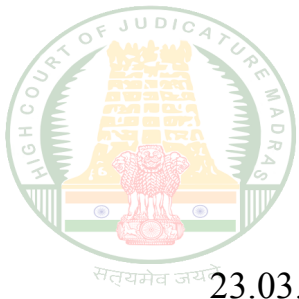
Standing Counsel

ORDER

The petitioner has filed this petition seeking to quash the order of recovery made by the second respondent on 30.05.2023 and to refund the amount already recovered, if any.

2. Heard the learned counsel on either side and perused the materials placed before this Court. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner, who worked as Village Administrative Officer had peacefully retired on attaining the age of superannuation. The house rent allowance was revised from 01.01.1996 as per the Government Orders in G.O.Ms.No.218, Finance (Allowances) Department, dated



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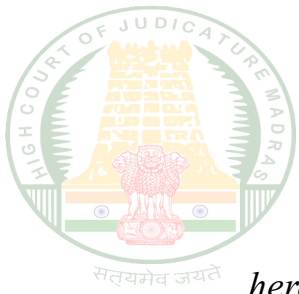
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23.03.1993 and G.O.Ms.No.162, Finance (Pay Cell) Department, dated 13.04.1998 and as per the clarification issued in Government Letter No. 30027/PC-I/1998-1 dated 28.04.1998 and the petitioner has been sanctioned house rent allowance accordingly. However, the impugned order was passed to recover the alleged excess payment of house rent allowance from the petitioner. Challenging the said order of recovery, the present petition has been filed.

4. The learned counsel appearing for the petitioner submitted that though the petitioner retired from service a long back, the impugned recovery order has been passed only in the year 2023.

5. 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



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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. ""

6. In the case on hand, the petitioner is a retired person and therefore, he falls under Class II category. In such circumstances, the '**White Washer**' case cited above is squarely applicable to the facts of the present case.



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7. 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.

8. In the result, this writ petition is allowed and the order of the second respondent dated 30.05.2023 is quashed and the fourth respondent is directed to refund the recovered amount, if any, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

19.08.2025

Index : Yes / No
NCC : Yes / No
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M.DHANDAPANI, J.

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To:-

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2. The Revenue Divisional Officer,
Tirunelveli Division, Tirunelveli.
3. The Tahsildar,
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