



W.P.(MD)No.23293 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.23293 of 2025
and
W.M.P.(MD)No.18301 of 2025

N.Kannan

... Petitioner

Vs.

1.The Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.

2.The Director of Public Health
and Preventive Medicine,
O/o.the Director of Public Health and
Preventive Medicine,
DMS Complex, Chennai-600 006.

3.The District Health Officer,
Karur District, Karur.

4.The Block Medical Officer,
Government Primary Health Centre,
Vangal, Karur District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorarified Mandamus, to call for the



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records in pursuant to the impugned orders passed by the fourth respondent in R.No.101/A1/2025 dated Nil.06.2025 (Signed on 08.07.2025) and quash the same and consequently direct the respondents to grant existing pay to the petitioners continuously and to grant all attendant and monetary benefits.

For Petitioner : Mr.M.Saravanakumar
For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

This Writ Petition is filed challenging the order passed by the fourth respondent dated Nil.06.2025 for re-fixation and recovery and for a consequential direction to the respondents to grant existing pay to the petitioner continuously and to grant all attendant and monetary benefits.

2.The learned counsel for the petitioner submitted that the petitioner, who was working as a Health Inspector Grade-I and promoted as Block Health Supervisor on 14.07.2017 and retired from service on 31.05.2024. The pay of the petitioner has been refixed on the allegation that he has been given with excess payment and thereafter, an order of recovery has been passed.



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3. Whenever an audit objection is made regarding any of the monetary benefits given to the employees, it is obligatory on the part of the employer or the pay drawing authorities to give an explanation as to how the sanction is in accordance with the rules. But it is surprising to see every audit objection is resulted in knee jerk action of recovery without giving any notice to the employees, who will be affected by the issuance of sudden recovery order.

4. So far as the recovery element is concerned, even for any reasons, the petitioner cannot be allowed to suffer recovery for the inadvertent payment made by the respondents. The petitioner is no way responsible for fixation of pay. Hence, the petitioner's case is squarely covered under the decision of the Hon'ble Supreme Court in the case of *State of Punjab and Others Vs. Rafiq Masih (White Washer) and others* reported in **2015 (4) SCC 334**, wherein recoveries by the employers, would be impermissible in law and the relevant portion reads as follows:

“(i) Recovery from employees belonging to Class-III and



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Class-IV service (or Group 'C' and Group 'D' service).

(ii)

(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.”

5.The petitioner was serving as a Block Health Supervisor at the time of his retirement and he would fall under Group-C category of the employees. The petitioner has not suppressed any material facts in order to induce the authorities to make excess payment to him or he has not caused any loss to the Government to order for recovery under the provisions of Pension Rules. Hence, the recovery would fall under conditions of impermissible recovery as settled down in '**White Washer's**' case. Since the recovery is impermissible in law as per the decision cited supra, the same is liable to be set aside.

6. Insofar as the re-fixation of pay of the petitioner on the ground that the pay has been wrongly fixed and it will reflect upon the pension, is concerned, the re-fixation order has been made without putting the



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petitioner on notice. Before passing the order for re-fixation, the authorities concerned has to put the petitioner on notice. Therefore, the order impugned in this writ petition is liable to be set aside.

7. In view of the same, this writ petition is allowed and the order of recovery and the order of re-fixation of pay are hereby set aside. The fourth respondent is directed to issue notice to the petitioner with regard to the issue of re-fixation of pay within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the petitioner is at liberty to make his submission by raising all his contentions within a period of two weeks therefrom. Thereafter, the fourth respondent shall pass order with regard to the re-fixation of pay, if any and furnish a copy of the same to the petitioner and thereafter, the retirement benefits of the petitioner shall be settled forthwith. No costs. Consequently, connected miscellaneous petition is closed.

28.08.2025

Index : Yes / No

Speaking Order : Yes / No

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To

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M.DHANDAPANI,J.

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