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WP Nos. 3083 & 3084 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-01-2026

CORAM

THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

WP Nos. 3083 & 3084 of 2018

M.Sactivel

..Petitioner(s) in
W.P.No.3083/2018

A.Padmapriya

..Petitioner(s) in
W.P.No.3084/2018

Vs

1. Managing Director,
Puducherry Power Corporation Ltd.,
No.10, Second Cross, Jawahar Nagar,
Boomianpet, Puducherry-605 005.
2. Chief Secretary to the Government,
Government of Puducherry,
Chief Secretariat,
Puducherry.
3. Secretary to the Government,
Industrial Development (Power) Department,
Government of Puducherry,
Chief Secretariat,
Puducherry.
4. Deputy Secretary to Government,
Industrial Development (Power) Department,
Government of Puducherry,
Chief Secretariat,
Puducherry.



5. The Government Of India,
Rep. by its Secretary,
Ministry Of Home Affairs,
J674 VGV, North Block, Central Secretariat,
New Delhi,
Delhi.110 001.

(R5-suo motu impleaded as per Order dated
04.12.2024 In WPs.3083 & 3084/2018)

..Respondent(s) in both
W.Ps.

PRAYER in W.P.No.3083/2018 : Certiorarified Mandamus to call for the records pertaining to the order of the first respondent dated 17.01.2018 made in No.204/ PPCL/PDY MD/Estt/2017-18 passed against the petitioner, and quash the same and consequently direct the respondents to continue to pay in the same pay scales granted to the petitioner by Resolution dated 27.06.2014 made in Item No.110.8 with all consequential monetary benefits.

PRAYER IN W.P.No.3084/2018 : Certiorarified Mandamus to call for the records pertaining to the order of the first respondent dated 17.01.2018 made in No.203/ PPCL/PDY MD/Estt/2017-18 passed against the petitioner, and quash the same and consequently direct the respondents to continue to pay in the same pay scales granted to the petitioner by Resolution dated 27.06.2014 made in Item No.110.8 with all consequential monetary benefits.

For Petitioner(s) in both W.Ps.: M/s.M.Gnanasekar

For Respondent(s) in both W.Ps.: Mrs.Sharada Vivek,
Addl. Govt.Pleader,
for Respondents 1 to 4.
Mr.V.Chandrasekaran,
Senior Panel Counsel for Respondent 5



ORDER

The challenge in these Writ Petitions is to the orders dated 17.01.2018 passed by the first respondent, by which the newly upgraded post of Stenographer, Grade-I, was withdrawn and the petitioners, who had been promoted based on such upgradation as Stenographer, Grade-I, were reverted to the post of Stenographer, Grade-II, with effect from 01.07.2014. By the said orders, recovery of the excess amount, if any, already paid to the petitioners was also directed to be effected from their salaries in easy instalments.

2. The petitioners, while working as Stenographer, Grade-II, were upgraded to the post of Stenographer, Grade-I, vide Board Resolution No.110.08 dated 27.06.2014. Thereafter, it was noticed by the Board that there was only one sanctioned post of Stenographer, Grade-I, and that the upgradation of the petitioners had been effected without obtaining the approval of the Government. Consequently, the impugned orders came to be passed.

3. The learned counsel appearing for the parties were heard and the materials available on record were perused.

4. Admittedly, the petitioners were upgraded to the post of Stenographer, Grade-I, without prior approval of the Government. Therefore, the first respondent was justified in revoking the order of upgradation. Hence, the revocation of the upgradation of the petitioners to the post of Stenographer, Grade-I does not warrant interference by this Court.



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5. In so far as the recovery of excess salary paid to the petitioners, it is apposite to refer to a decision of the Apex Court in the case of *State of Punjab v. Rafiq Masih (White Washer)*, 2015 (4) SCC 334, wherein it has been held as under :

“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 services (or Group ‘C’ and Group ‘D’.

(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.”



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6. In the said decision, the Hon'ble Apex Court has categorically held that where payments have been made mistakenly by the employer in excess of the entitlement of the employees, recovery from employees belonging to Class III and Class IV or Group 'C' and Group 'D' services would be impermissible in law. However, the said decision is applicable only in cases where the excess salary was not paid on account of any misrepresentation or fraud on the part of the employees.

7. In the instant case, the salary attached to the post of Stenographer, Grade-I, was paid pursuant to an upgradation effected vide a Board Resolution. The petitioners cannot be faulted for the upgradation of their posts, and the said upgradation was neither obtained by misrepresentation nor by playing fraud on the part of the petitioners. In such circumstances, the recovery of excess salary paid to the petitioners would be impermissible in law, in the light of the legal principle laid down by the Hon'ble Apex Court in *State of Punjab v. Rafiq Masih (White Washer)*, cited supra. Therefore, to that extent, the impugned orders warrant interference.

8. Accordingly, the impugned orders dated 17.01.2018 passed by the first respondent are set aside to the extent they seek recovery of the excess salary paid to the petitioners. The petitioners are granted liberty to submit fresh representations to the respondent Board, requesting that a proposal be



forwarded to the Government for approval of the upgradation of the petitioners to the post of Stenographer, Grade-I. If any such representations are submitted, the first respondent is directed to consider the same on their own merits and in accordance with law, within a period of two months from the date of receipt of such representations.

9. The Writ Petitions are disposed of accordingly. No costs. Consequently, the connected W.M.P. Nos. 3771 and 3772 of 2018 are closed.

29-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

DIXIT



To

1. Managing Director,
Puducherry Power Corporation Ltd., No.10,
Second Cross, Jawahar Nagar, Boomianpet,
Puducherry-605 005.
2. Chief Secretary to the Govt.,
Government of Puducherry, Chief Secretariat,
Puducherry.
3. Secretary to the Government,
Industrial Development (Power) Department,
Government of Puducherry, Chief Secretariat,
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HEMANT CHANDANGOUDAR J.

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