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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-06-2026

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THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP No. 9060 of 2026

V.Chandra

..Petitioner(s)

Vs

1. The Registrar General
High Court of Madras,
high Court Campus,
Chennai 600 104
2. The Principal Secretary to Government
Home (Court V) Departm ent,
Fort Saint George,
Chennai 9
3. The Principal District Judge
Dharmapuri
4. The Principal Accountant General (A and E)
AGs office (Audit)m Complex,
Anna salai, Roast Revor Garden,
Teynampet, Chennai 600 018
5. The District treasury officer
Dharmapuri
6. The judicial magistrate I,
Magistrate court,
Dhamrapuri District

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India
issuing writ of certiorarified mandamus calling for the records of the 6th
respondent in connection with proceedings ROC no 1788 / 2022 dated
22.06.2022 signed on 28.11.2022 and quash the same and consequently



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direct the 4th respondent to repay the amount paid by the petitioner.

For Petitioner(s): Mr.P.Thirumalaivasan

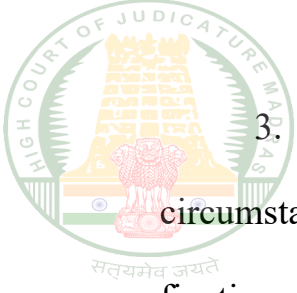
For Respondent(s): Mr.Karthik Ranganathan for R1 R3 & R6

ORDER

(Order of the Court was made by S.M.Subramaniam J.)

The Writ Petition has been filed to set aside the order of the 6th respondent in connection with proceedings ROC.No.1788/2022, dated 22.06.2022 and to direct the respondents to remit back the recovered amount to the petitioner.

2. Petitioner was initially appointed as a typist at Judicial Magistrate Court, Dharmapuri on 30.07.2009 and her service was later regularized. Thereafter, she was promoted as Head Clerk in Judicial Magistrate Court I, Dharmapuri, currently working as a Head Clerk at District Munsif Court at Dharmapuri. Petitioner further submits that based on an internal audit report, it was concluded by the authorities that excess pay has been paid to the petitioner and ordered for a recovery of Rs.1,69,971/-. Though the petitioner submitted an explanation to the show cause notice in this regard, the 6th respondent has passed the impugned order. Aggrieved by the same, the present writ petition is instituted.



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3. Unjust gain of public money is impermissible under law. In such circumstances, the Authorities Competent are empowered to rectify the errors in fixation of pay and grant the correct pay as applicable. Thus, the revised pay fixation granted by the respondents in accordance with the Pay Rules and Government Orders shall continue.

4. However, the respondents are unable to establish that there was a misrepresentation on the part of the employee during fixation of pay. It is an error committed by the Establishment for which the petitioner cannot be penalised after a lapse of many years. Recovery of excess salary at this length of time would result in extreme hardship to the employee.

5. In this regard, the Hon'ble Supreme Court of India also enumerated the legal principles in the case of *State of Punjab v. Rafiq Masih*¹ and held as follows:

“18.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 hereinabove, we may, as a ready reference, summarize the following few situations,



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wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

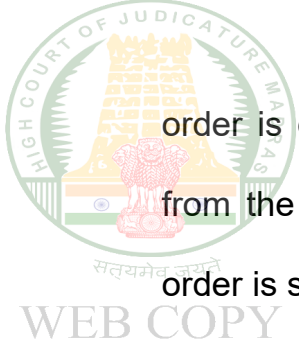
(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) 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.

(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 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 view of the facts and circumstances, the revision of pay effected pursuant to the Audit Objection is confirmed, but the recovery of excess pay alone is set aside. The excess amount recovered on account of the impugned



order is directed to be re-paid to the petitioner within a period of 12 weeks from the date of receipt of a copy of this order. Accordingly, the impugned order is set aside, with reference to the recovery of excess salary alone.

7. Accordingly, the Writ Petition stands partly allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

(S.M.S.,J.) (N.S.,J.)
01-06-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

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**S.M.SUBRAMANIAM, J.
AND
N.SENTHILKUMAR, J.**

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