



W.P.Nos.21463 & 6025 of 2016

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2026

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THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.Nos.21463 & 6025 of 2016

and

WMP.Nos.5341, 5342 & 18352 of 2016

1.A.Marimuthu

2.M.Murugan

3.N.Chinnarasu

...Petitioners in W.P.No.21463/2016

1.P.Kumaresan

2.S.Shanmugasundaram

3.K.Palanisamy

4.A.Mahalingam

5.S.Balakrishnan

...Petitioners in W.P.No.6025/2016

Vs.

1.The State of Tamil Nadu

Represented by its Secretary

Municipal Administration and Water Supply Dept

Fort St.George

Secretariat

Chennai 600 009.

2.The Director of Municipal Administration

Chepauk

Chennai 600 005.



3.The Commissioner
Pollachi Municipality
Pollachi Town
Coimbatore Dist 642 001.

...Respondents in both W.P.Nos.

Prayer in W.P.No.21463 of 2016: This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records culminated in Rc.Lr.No.45529/F3/2010 dated 21.05.2015 passed by the 2nd respondent, quash the same and consequently direct the respondents to continue implementing the posts and pay scale as revised by the Government in G.O.Ms.No.338 Finance (Pay Cell) Department dated 26.08.2010 for the category of 'Unskilled'.

Prayer in W.P.No.6025 of 2016: This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, directing the respondents to call for the records relating to the impugned letter issued by the 2nd respondent in Rc.Lr.No.45529/F3/2010 dated 21/05/2015, quash the same and consequently direct the respondents to continue implementing the posts and pay scale as revised by the Government in G.O.Ms.No.338 Finance (Pay Cell) Department dated 26/08/2010 for the category of 'Unskilled'.

For Petitioners
in both W.P.Nos.

: Mr.Vijayaganesh.S

For Respondents
in both W.P.Nos.

: Mr.V.Veluchamy for R1 & R2
Additional Government Pleader
Mr.R.Lakshmi Narayanan for R3



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COMMON ORDER

In these Writ Petitions, the challenge is to the communication dated 21.05.2015 bearing Rc.Lr. No. 45529/F3/2010 issued by the second respondent. By the said communication, the higher pay fixed in respect of the petitioners was cancelled, and the pay of the petitioners was refixed in accordance with the instructions issued therein. Further, it was directed that the excess pay, if any, arising out of such refixation, should be recovered from the salary of the petitioners.

2. The petitioners are all Group IV employees serving in the third respondent Municipality. The petitioners were redesignated as Unskilled Workers vide G.O.Ms. No. 338/2010, Finance (Pay Cell) Department, and were granted the revised scale of pay with effect from 18.08.2011. While so, the second respondent issued the impugned communication.

3. Heard the learned counsel for the petitioners and the learned counsel appearing for the respondents.



4. Admittedly, the petitioners received the revised salary based on the Government Order, and such revision of pay scale was not on account of any misrepresentation or fraud played by the petitioners.

5. The writ petitioners are serving as Group IV employees and, therefore, recovery of excess salary, if any, cannot be effected in view of the legal principles settled by the Hon'ble Supreme Court of India in ***State of Punjab & Ors. vs. Rafiq Masih [2015 (4) SCC 334]***. The Hon'ble Supreme Court has laid down the governing principles relating to recovery in paragraph No. 18 of the judgment, which is extracted hereunder:

“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 herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employees, would be impermissible 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 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 view of the legal principles settled by the Hon'ble Apex Court in this regard, the excess amount, if any, paid to the writ petitioners cannot be recovered. However, any error or mistake in the fixation of pay may be corrected in accordance with law, based on the audit objections.

7. Accordingly, these Writ Petitions are allowed in part. The impugned order passed by the second respondent, insofar as it relates to the recovery of excess salary paid to the petitioners, is hereby quashed. Consequently, the connected Miscellaneous Petitions are closed. There shall be no order as to costs.

30.01.2026

Index : Yes/No
Speaking order : Yes/No
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To

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Municipal Administration and Water Supply Dept
Fort St. George
Secretariat
Chennai 600 009.

2. The Director of Municipal Administration
Chepauk
Chennai 600 005.

3. The Commissioner
Pollachi Municipality
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