



WEB COPY

WP Nos. 9767 and 9773 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-03-2026

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

W.P. Nos. 9767 and 9772 of 2026
and W.M.P.No.10544 of 2026

R.Baskaran

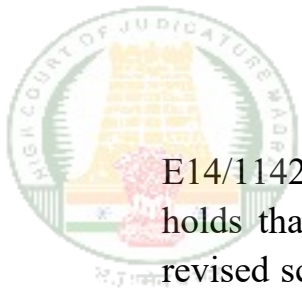
..Petitioner

Vs

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Health and Family Welfare Department,
Fort St. Geroge, Chennai - 600 009.
- 2.The Director,
Public Health and Preventive Medicine Department,
Chokkalingam Nagar, Teynampet,
Chennai - 600 006.
- 3.The Accountant General (Accounts and Entitlements),
Tamil Nadu, No.361, Anna Salai,
Teynampet, Chennai - 600 018.
- 4.The District Health Officer,
(Formerly named as Deputy Director of Health Services)
Nerupperichal Road,
Tiruppur - 641 602.
- 5.The Block Medical Officer
Government of Primary Health Centre,
Cheyur, Tiruppur District - 641 655.

..Respondent(s)

Prayer in W.P.No.9767: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the Office of Accountant General (A & E), Tamil Nadu, Chennai, the 3r respondent herein dated 21.06.2025 having No.E15/2/11522228/ADK and 22.09.2025 having Ref. No.AG(A&E)/PEN



E14/11426052/2/R1426052 and quash the same insofar as the 3rd respondent holds that Personal pay of 5% for the petitioner is allowed only on the pre-revised scale of pay and not in the revised scale of pay and consequently direct the Block Medical Officer, Government Primary Health Centre, Cheyur, Tiruppur District, 5th respondent herein to refund the sum of Rs.4,40,625/- deducted from the Death-cum-Retirement Gratuity of the Petitioner pursuant to proceedings having Ref. No.R. No.39/A1/2025 dated 16.07.2025 passed by the 5th respondent along with interest at 12% ill date of refund.

Prayer in W.P.No.9772 of 2026: Writ Petition is filed under Article 226 of the Constitution of India, seeking issuance of a Writ of Mandamus directing the Office of the Accountant General (A&E), Tamil Nadu, Chennai 3rd Respondent herein to pay the pension of Rs.45,300/- based on the last drawn salary of Rs.90,600/- instead of Rs.44,000/- with eligible allowances every month without any deduction to the petitioner by commuting the pay of the petitioner on the date of retirement by merging the 5% PP with the revised scale of pay as on 01.09.1998.

For Petitioner : Mr.Nalini Chidambaram,
Senior Counsel
for M/s.C.Uma

For Respondent(s): Mr.M.Bindran,
Additional Government Pleader
for R1, R2, R4 & R5

Mr.A.N.R.Jaya Prathap
Standing Counsel for R-3

COMMON ORDER

These Writ Petitions have been filed seeking quashment of the impugned proceedings of the third respondent dated 21.06.2022 and 22.09.2022 and consequently, a direction to the fifth respondent to pay a sum of Rs. 45,300/- as



pension per month to the petitioner and refund the sum of Rs. 4,40,625/- paid by the petitioner pursuant to proceedings having Ref. No. R.No.39/A1/2025, dated 16.07.2025 passed by the 5th respondent, along with interest at 12% till date of refund.

2. Mr.M.Bindran, learned Additional Government Pleader takes notice on behalf of the respondents 1, 2, 4 & 5. Mr.A.N.R.Jaya Prathap, learned Standing Counsel, takes notice on behalf of the third respondent. In view of the consent expressed by the learned counsel on either side, the Writ Petition is taken up for final disposal at the stage of admission itself.

3. The case of the petitioner is that he was appointed as Leprosy Inspector on 04.11.1988 and was subsequently re-designated as Health Inspector Grade-IB pursuant to various Government Orders. According to the petitioner, 5% Personal Pay (PP) which was sanctioned under G.O.Ms.No.664 dated 24.08.1992, was rightly merged with his revised scale of pay as per the proceedings of the second respondent dated 27.07.2015, and his pay was fixed accordingly upon award of Selection Grade. While so, the third respondent, by proceedings dated 21.06.2025 and 22.09.2025, held that the 5% Personal Pay ought to have been merged only with the pre-revised scale of pay and not with the revised scale, resulting in reduction of the petitioner's last drawn salary and



consequent reduction of pension. Further, a sum of Rs.4,40,625/- was ordered to be recovered treating the same as excess pay drawn, which amount was recovered by the fifth respondent out of DCRG of Rs.22,50,600/- and remitted the same into Government Account which was acknowledged by the Assistant Treasury Officer, Avinasi, by proceedings dated 17.12.2025. Aggrieved by the cancellation of 5% Personal Pay in the revised scale, reduction of pension from Rs.45,300/- to Rs.44,000/- and recovery of Rs.4,40,625/-, the petitioner has filed the present Writ Petition seeking to quash the impugned proceedings and for a consequential directions to refix the pension and refund the recovered amount.

4.1. Learned Senior Counsel appearing for the petitioner submitted that the petitioner was only re-designated from Leprosy Inspector to Health Inspector Grade-IB and was neither promoted nor upgraded, and therefore, the benefits already granted, including 5% Personal Pay, cannot be withdrawn. It is further submitted that as per the proceedings of the second respondent dated 27.07.2015, the 5% Personal Pay was rightly merged with the revised scale of pay and the petitioner's pay was fixed accordingly. The learned Senior Counsel would further contend that in respect of several similarly placed employees, the Office of the third respondent itself has accepted merger of 5% Personal Pay with the revised scale of pay and therefore the impugned action is arbitrary and



discriminatory. It is also submitted that the petitioner had not made any misrepresentation and the alleged excess payment, if any, occurred only due to departmental fixation.

4.2. Placing reliance upon the decision of the Hon'ble Supreme Court in *State of Punjab vs. Rafiq Masih (White Washer)*, reported in *[(2015) 4 SCC 334]*, it is contended that recovery from a retired employee is impermissible in law. It is further submitted that a learned Single Judge of this Court in W.P.No.39714 of 2025, following the aforesaid judgment, has held that in view of G.O.Ms.No.286, dated 28.08.2018, no recovery can be made from retired employees or in cases where the excess payment had been made for a period exceeding five years prior to the order of recovery, and accordingly set aside the impugned order therein. Therefore, present recovery of Rs.4,40,625/- from the petitioner after retirement is wholly unsustainable in law and liable to be quashed.

5.1. M.Bindran, learned Additional Government Pleader appearing for the respondents 1, 2, 4 & 5, submitted that as per G.O.Ms.No.110, Health and Family Welfare Department, the 5% Personal Pay is admissible only in the pre-revised scale of pay applicable to the post of Leprosy Inspector and not in the revised scale of pay of Health Inspector Grade-IB, since the said post does not



carry Personal Pay. Therefore, the third respondent, while scrutinizing the Service Book at the time of retirement, noticed wrong fixation of pay and directed correction in accordance with the Government Order and relevant Fundamental Rules. It is further submitted that as per Fundamental Rule 23, the pay ought to have been fixed in the same stage or next higher stage available in the appropriate scale and upon proper refixation, it was found that excess pay and allowances had been drawn by the petitioner. Consequently, the pensionary benefits were calculated based on the corrected last drawn emoluments of Rs.88,000/- and not Rs.90,600/-, and the pension was rightly fixed at Rs.44,000/-.

5.2 The learned Additional Government Pleader would therefore contend that the impugned proceedings dated 21.06.2025 and 22.09.2025 were issued strictly in accordance with the applicable Government Orders and Pension Rules, and the recovery ordered was only towards excess payment made due to erroneous fixation, and hence, the Writ Petition is liable to be dismissed.

6. Heard the learned counsel on either side and perused the materials available on record.



7. It is not in dispute that the petitioner was granted 5% Personal Pay and the same was merged with the revised scale of pay pursuant to the proceedings of the competent authority. The impugned proceedings seek to refix the pay by merging the 5% Personal Pay with the pre-revised scale and consequently reduce the pension and recover a sum of Rs.4,40,625/- after the petitioner's retirement. Admittedly, the alleged excess payment was not on account of any misrepresentation or fraud on the part of the petitioner.

8. The Hon'ble Supreme Court in *White Washer's* case (supra) has categorically held that recovery from retired employees is impermissible in law, particularly when the excess payment was not attributable to any misrepresentation or fraud on the part of the employee. The said principle has been followed by the Government in G.O.Ms.No.286, dated 28.08.2018, wherein it has been clarified that no recovery shall be made from retired employees or in cases where the excess payment had been made for a period exceeding five years prior to the order of recovery.

9. In the present case, the petitioner retired from the service on 30.04.2025. Thereafter, the third respondent refixed the pay and held that excess pay and allowances had been drawn by the petitioner and proceeded to effect recovery. Admittedly, the alleged excess payment was not on account of any



fault on the part of the petitioner. In such circumstances, the action of the third respondent in refixing the pay and ordering recovery is unsustainable in law.

Therefore, the impugned proceedings cannot be sustained.

10. In view of the above, the impugned proceedings of the third respondent dated 21.06.2025 and 22.09.2025 are hereby quashed. Accordingly, W.P.No.9767 of 2026 stands allowed. The fifth respondent is directed to refund the sum of Rs.4,50,625/- recovered from the petitioner, within a period of two (2) weeks from the date of receipt of a copy of this order.

11. In view of the order passed in W.P.No.9767 of 2026, W.P.No.9772 of 2026 stands disposed of with a direction to refix the pension at Rs.45,300/-. There shall be no order as to costs. Consequently, connected Writ Miscellaneous Petition is closed.

16-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

SRM



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To

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai - 600 009.
2. The Director,
Public Health and Preventive Medicine Department,
Chokkalingam Nagar, Teynampet,
Chennai - 600 006.
3. The Accountant General (Accounts and Entitlements),
Tamil Nadu, No.361, Anna Salai,
Teynampet, Chennai - 600 018.
4. The District Health Officer,
(Formerly named as Deputy Director of Health Services)
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P.T.ASHA, J.

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