IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2026

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THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.A.No.1083 of 2023
and
C.M.P.No.10943 of 2023

1. The Accountant General of Tamil Nadu
Office of the Accountant General (A&E)
Teynampet,
Chennai-600 018.

2. Senior Accounts Officer (Legal Cell)
Office of the Accountant General (Accounts & Entitlements)
Tamil Nadu
361, Anna Salai
Chennai-600 018. ... Appellants

vs.

1. S.Raja Mohamed
S/o.Syed Ibrahim

2. The Executive Engineer
Cauvery Basin Sub Division
PWD/WRO, Tanjore 613 001.

3. The Chief Engineer (General)
Public Works Department

Chepauk, Chennai-600 005.

4. The Secretary to Government of Tamil Nadu
Public Works Department
Fort St.George
Chennai-600 009. … Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 03.09.2021 passed in W.P.No.19401 of 2008.

For Appellants	:	Mr.S.Magesh for Mr.V.Vijayashankar
For Respondents	:	Mr.Nithiashwar, for Mr.K.R.Samrat, for R1 Dr.R.Gouri Government Counsel, for R2 to R4

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JUDGMENT

[Made by **S. M. SUBRAMANIAM, J.,]**

The present writ appeal has been instituted challenging the writ order dated 03.09.2021 in W.P.No.19401 of 2008.

2. The Accountant General of Tamil Nadu preferred the present intra-Court appeal mainly on the ground that a wrong fixation of pay made can be corrected by the authorities at any point of time on identification or during the course of audit.

3. In the present case, fixation of pay admissible to the first respondent was erroneously fixed and at the time of settling the terminal benefits to the first respondent, the Accountant General of Tamil Nadu found that the fixation made was not in accordance with Pay Rules and the Government Orders in force. Thus, an order of re-fixation and consequential recovery order was passed. The said order came to be challenged by the first respondent by way of a writ petition.

4. The writ Court, initially set aside the order with a direction to the authorities to issue a show cause notice, afford opportunity and thereafter take a decision. In compliance with the directions issued by this Court, a show cause notice was issued to the first respondent by the Department. On receipt of the explanation from the first respondent, final order was passed on 04.07.2008, re-fixing the pay admissible to the first respondent and the consequential recovery. The second writ petition was filed in W.P.No.19401 of 2008 challenging the order dated 04.07.2008. The writ Court allowed the writ petition on 03.09.2021 by setting aside the recovery. However, since re-fixation was not interfered with by the writ Court, the Accountant General of Tamil Nadu preferred the intra-Court appeal.

5. Hon'ble Supreme Court of India, in the case of ***State of Punjab and others Vs. Rafiq Masih (White Washer) and others*** reported in [***2015] 4 SCC 334***, held that an erroneous pay fixation cannot be allowed to continue. However, excess salary paid to an employee shall not be recovered, more specifically after retirement. In other words, recovery from retired employees cannot be made, since such recovery would result in hardship.

6. In the present case, erroneous fixation was identified by the Accountant General of Tamil Nadu during sanctioning of terminal and pensionary benefits to the first respondent. Thus, a revised fixation order was passed and consequential recovery was made. Applying the principles laid down by the Hon'ble Supreme Court, the recovery alone is to be set aside but the revised fixation done in accordance with Pay Rules and the Government Orders must be confirmed and continued for payment of pension and all other benefits. No Government employee is entitled to receive pension and salary over and above his / her eligibility and any such excess payment would result in unjust to the employee and financial loss to the State Exchequer. Thus, correction of mistakes in pay fixation can be done by the authorities at any point of time. However, recovery of

excess salary already paid shall not be made. In view of the above principles, it is made clear that the recovery of excess salary already paid to the first respondent alone is set aside and re-fixation done by the Accountant General of Tamil Nadu in accordance with the Pay Rules and the Government Order in force stands confirmed.

7. With the above modifications, the Writ Appeal stands disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

(S.M.S.,J.) (N.S.,J.)
12.06.2026

Index : Yes
Neutral Citation : Yes / No
Speaking order
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To
1. The Executive Engineer
   Cauvery Basin Sub Division
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2. The Chief Engineer (General)
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   Chepauk, Chennai-600 005.
3. The Secretary to Government of Tamil Nadu
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   Fort St.George
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S. M. SUBRAMANIAM, J.,
and
N.SENTHILKUMAR, J.,

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