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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. 12915 of 2026

K.Kasthuri

..Petitioner(s)

Vs

1.Registrar General,  
Madras High court,  
Chennai 104

2.Principal District court,  
Tiruvallur district,  
combined court building,  
Tiruvallur 602 001

3.Additional District Judge No.II at Poonamallee  
Poonamallee combined court Building,  
Chennai 56

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India  
issuing writ of certiorari for calling for the records of the 3rd respondent vide  
order dated 19.02.2026 in D.no. 286/DN/ 2026 and quash the same and pass

|                    |                                |
|--------------------|--------------------------------|
| For Petitioner(s): | Mr.M.V.Seshachari              |
| For Respondent(s): | Mr.E.K.Kumaresan, for R1 to R3 |

**ORDER**

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

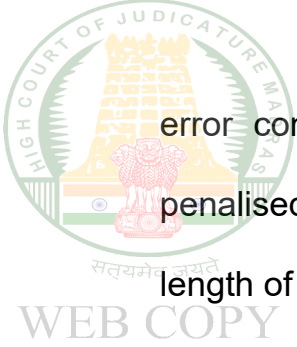
The Writ Petition has been filed to set aside the order of the 3<sup>rd</sup>  
respondent vide D No.286/DN/2026 dated 19.02.2026.



2. The petitioner was initially appointed as Masalchi on 01.04.2003, transferred as Office Assistant on 30.06.2007 and was promoted as Record Clerk on 15.03.2008 and was later promoted to the post of Junior Bailiff on 08.02.2019 and is continuing in the said post. As per G.O.Ms.No.1011, Home (Court – V), dated 07.12.2010, one notional increment was sanctioned to category of employees mentioned in the said G.O. who were in service on or before 31.12.2005. Writ petitioner was also granted the same as he was on service on that date. The writ petitioner was informed through impugned order dated 19.02.2026 that pursuant to the internal audit wing of the High Court, she was not eligible to the notional increment as she was working as a Malsalchi on that date and was not covered under the category of employees mentioned in the G.O. Based on the audit objection, the pay was revised accordingly, and excess salary paid to the petitioner was sought to be recovered from the her salary.

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**<sup>1</sup> and held as 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 hereinabove, we may, as a ready reference, summarize the following few situations, 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*

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<sup>1</sup> 2015 4 SCC 334



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*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.

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

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

GD

To

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

**GD**

**WP No. 12915 of 2026**

**01-06-2026**