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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. 12693 of 2026

Krishnaveni

..Petitioner(s)

Vs

1. The Registrar General
The Honble High Court of Madras,
High Court Building,
Chennai-600 104.
2. The Principal District Judge
Villupuram District Court,
Villupuram.
3. The Principal District Munsif-Cum-Judicial
Magistrate
Vikkiravandi,
Villupuram District

..Respondent(s)

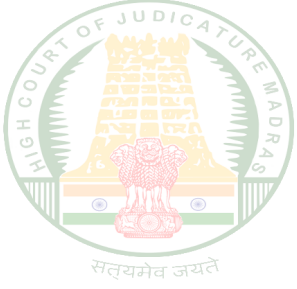
Writ Petition filed under Article 226 of the Constitution of India issuing writ of certiorarified mandamus calling for the records in impugned proceedings in D.No.990 of 2023 dated 12.01.2023 passed by the 2nd respondent quash the same in so far as recovery of excess pay and allowance of Rs.1,13,407/- for the period from 01.10.2007 to 31.12.2022 from the petitioner's monthly salary is concerned, consequently direct the respondents remit back the recovered amount of Rs.1,13,407/- to the petitioners within a time that may be fixed by this Court.

For Petitioner(s):

Mr.G.Balamanikandan

For Respondent(s):

Mr.R.Sunil Kumar

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

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The Writ Petition has been filed calling for the records of the 2nd respondent in impugned proceedings in D No. 990/2023 dated 12.01.2023, quash the same so far as the recovery of excess pay and allowance and to consequently direct to remit back the recovered amount within a time fixed by this court.

2. The petitioner was initially appointed as full time Masalchi on 04.08.2000 and later promoted as Office Assistant on 01.10.2007. The petitioner was sanctioned one increment for her promotion by the 2nd respondent. The writ petitioner was informed through impugned order in D.No. 990/2023, dated 12.01.2023, that pursuant to the internal audit wing of the High Court, the grant of sanction of one increment was held inadmissible to the petitioner as Class IV Employees may be appointed to Class III posts only by way of transfer of service and not by promotion, even though the scale of pay for the above posts are identical. Based on the audit objection, the pay was revised accordingly and excess pay and allowances paid to the petitioner was sought to be recovered from 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.

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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 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

¹2015 4 SCC 334



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Group D service).

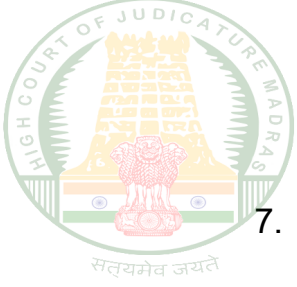
(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(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.

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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.**

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