



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. 15305 of 2026

S.Malliga

..Petitioner(s)

Vs

1.The Registrar General
The Honbe High Court of Madras,
High Court Building,
Chennai-600 104
2.the Principal District Judge,
Villupuram District Court,
Villupuram.

3.The Subordinate Judge,
Thirukovilur sub-Court,
Thirukovilur
Villupuram District.

..Respondent(s)

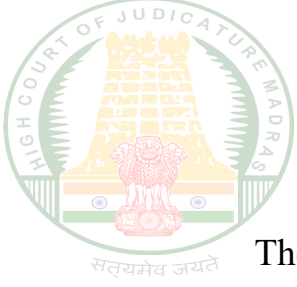
Writ Petition filed under Article 226 of the Constitution of India issuing writ of certiorarified mandamus Calling for the records in impugned proceedings in D.No./2023 dated 05.01.2023 passed by the 2nd respondent for recovery of excess pay and allowance of Rs.1,00,591/- for the period from 05.03.2009 to 31.12.2022 from the petitioner and quash the same and consequently direct the respondents to remit back the recovered amount of Rs.1,00,591/- to the petitioner within a time that may be fixed by this Court.

For Petitioner(s):

Mr.G.Balamanikandan

For Respondent(s):

Mr.V.Vasanthakumar for R1 to R3

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

The Writ Petition has been filed calling for the records of the 2nd respondent in impugned proceedings in D.No./2023 dated 05.01.2023, for recovery of excess pay and allowance and quash the same and to consequently direct the respondents to remit back the recovered amount with a time fixed by this court.

2. The petitioner was initially appointed as Full Time Masalchi, Class IV Employee on 03.01.2008 and later promoted to the post of Office Assistant on 05.03.2009. By proceeding no. 16/2015 dated 17.03.2015, the writ petitioner was sanctioned one increment for her promotion from the post of Masalchi to Office Assistant. The writ petitioner was informed through impugned order dated 05.01.2023, that pursuant to the internal audit wing of this 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 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 Masih¹** 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).

¹ 2015 4 SCC 334



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(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 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

1.The Registrar General
The Honbe High Court of Madras,
High Court Building,
chennai-600 104

2.the Principal District Judge,
Villupuram District Court,
Villupuram.

3.The Subordinate Judge,
Thirukovilur sub-Court,
Thirukovilur
Villupuram District.



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

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