IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-06-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP No. 17803 of 2026

V.R.Sundaramoorthy
Sherishtadar (Retired)
Motors Accident Claims Tribunal
Tindivanam.

..Petitioner(s)

Vs

1. The Registrar General,
   Madras High Court
   Chennai.

2. The Presiding Officer
   Motor Accidents Claims Tribunal
   Tindivanam.

3. The Principal Accountant General (A And E)
   Tamil Nadu
   No.361 Anna Salai
   Chennai 18.

4. The Sub Treasury Officer
   Tindivanam.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India issuing writ of certiorarified mandamus calling for the records of the 2nd respondent in his proceedings dated 18.02.2026 and Annexure - III dated 18.2.2026 issued along with D No.84/2026 dated 19.02.2026 and quash the same and thereby direct the respondents to refund the recovered amount of Rs.2,73,856/- from out of the Death cum Retirement Gratuity of the Petitioner to the petitioner forthwith.

For Petitioner(s): Mr.N.Suresh

For Respondent(s): Mr.P.Ebenezer Paul for R1 & R2
Mr.S.Mahesh, for Mr.V.Vijay Shankar,
Standing Counsel for Accountant General for R3

ORDER

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

The Writ Petition has been filed to set aside the impugned proceedings dated 18.02.2026 of the 2nd respondent and Annexure III dated 18.02.2026 issued along with D No. 84/2026, dated 19.02.2026, and to consequently direct the respondents to remit back the recovered amount from and out of the Death cum Retirement Gratuity of the petitioner.

2. The petitioner was originally appointed as temporary Typist on 11.02.1997 and after his services were confirmed, he was appointed as Examiner in regular post on 22.03.2001. Thereafter, petitioner was continuously working in various posts and was redeployed as Bench Clerk Grade- III from the post of Assistant on 14.12.2013. The petitioner was sanctioned promotional increment 3% with effect from 01.04.2014 and the pay was fixed accordingly and thereafter, for all further promotional posts, the pay was fixed as per the rules prevailing at that point of time. The petitioner, while working as Sherishtadar, Motor Accident Claims Tribunal, Tindivanam, applied for voluntary retirement on 24.03.2025 and was permitted to retire from service on 30.06.2025.

3. The petitioner's proposal for pension was forwarded by the 2nd respondent, which was returned for alleged discrepancy in fixation of pay, which was refixed through proceedings on 16.10.2025 and the pension was also refixed by an order dated 14.11.2025. Thereafter, petitioner requested the 2nd respondent to pay and release all his pensionary benefits. However, the writ petitioner was informed through impugned order dated 18.02.2026, that pursuant to the internal audit wing of this Court, the sanction of one increment on redeployment post of Bench Clerk Grade-III from the post of Assistant was held inadmissible to the petitioner. Based on the audit objection, the pay was revised accordingly, and excess pay and allowances paid to the petitioner was deducted from his Death cum Retirement Gratuity through the impugned order.

4. 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.

5. 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.

6. 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 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.*

[1]2015 4 SCC 334

(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.

7. 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.

8. Accordingly, the Writ Petition stands partly allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

(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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AND
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