



WEB COPY

W.P.No.18488 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2026

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.18488 of 2026

AND

W.M.P.Nos.19827 & 19835 of 2026

S.Anitha

... Petitioner

-VS-

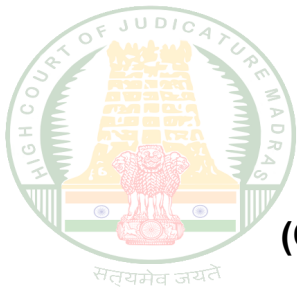
1. The Registrar General
High Court of Madras,
Chennai - 600 104.
2. The District Judge,
Vellore District.
3. The Accountant General,
Office of the Accountant General
(Accounts and Entitlements)
361, Anna Salai, Teynampet,
Chennai – 600 108.

... Respondents

Prayer: Calling for the records relating to the impugned order passed by the 2nd respondent in Dis.No.12604/2025/CS dated 31.12.2025 and quash the same and consequently direct the respondents to forbear from effecting any recovery from the salary of the petitioner.

For Petitioner: Ms.S.Shamini

For Respondents: Mr.M.T.Arunan for R1 & R2
Mrs.V.Kanchana
For Mr.V.Vijay Shankar for R3



ORDER

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

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The Writ Petition has been filed to set aside the order of the 2nd respondent in Dis.No.12604/2025/CS dated 31.12.2025 in respect of recovery of excess pay and allowance of Rs.5,00,263/- for the period from 11.01.2019 to October, 2025 from the petitioner.

2. Petitioner was appointed as Masalchi on 26.04.2013 and subsequently, promoted as Record Clerk on 10.06.2016 and thereafter, as Reader on 10.01.2019. Second Respondent, pursuant to the objection raised by Internal Audit Wing in respect of excess fixation of promotional pay, passed the impugned order dated 31.12.2025 for recovery and re-fixation of pay of petitioner, after a long time. Aggrieved by the order of the 2nd Respondent, the petitioner filed the present writ petition.

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**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.

¹2015 4 SCC 334



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(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 W.M.P.No.19827 of 2026 is ordered and W.M.P.No.19835 of 2026 is closed. No costs.

(S.M.S.,J.) (N.S.,J.)
23.06.2026

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

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