



WEB COPY

WP No. 19032 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-06-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP No. 19032 of 2026

and

WMP No. 20272 of 2026

V.Malliga

W/o.Veerappan, West Pondy Road, Near Seventh
day School, Villupuram 605 108.

..Petitioner(s)

Vs

1. The Registrar General,
High Court of Madras, Chennai-104
2. The I Additional District Judge,
Tindivanam.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorified Mandamus to call for the records of the proceeding in office order No.193/2025 dated 19/12/2025 issued by 2nd Respondent for recovery of excess pay and allowance of Rs.2,78,459 /- (Two Lakhs seventy Eight Thousand four Hundred and Fifty Nine Only) from Petitioner and quash the same.

WP No. 19032 of 2026

For Petitioner(s): Mr.S.Tamil Selvan

For Respondent(s): Mr.Prabhu Mukunth Arunkumar
for R1 & R2

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

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The Writ Petition has been filed to call for the records of the 2nd respondent in office order No.193/2025 dated 19.12.2025 for recovery of excess pay and allowance of Rs.2,78,459/- from the petitioner and quash the same.

2. The petitioner worked as a Special Grade Senior Bailiff under the 2nd respondent. Earlier, she worked in District Munsif-cum-Judicial Magistrate Court, Vanur from 15.10.2020 to 01.08.2022. She was wrongly granted Personal Pay @ 5% with effect from 17.03.1999 to 28.02.2025 until she attain superannuation. The 1st respondent, after a long time issued Audit Report and directed that since Personal Pay @ 5% for the post of Special Grade Senior Bailiff was wrongly granted to the petitioner, the excess amount paid as pay and allowances on pay fixation for the period from 17.03.1999 to 28.02.2025 amounting to Rs.2,78,459/-, the same has to be recovered from the petitioner. Since the petitioner attained superannuation, the said amount is directed to be adjusted and recovered from her retirement benefits.

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 Group D service).

¹2015 4 SCC 334



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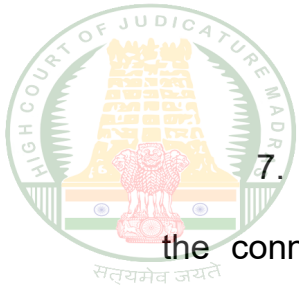
(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(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 partly allowed. Consequently, the connected Miscellaneous Petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) (N.S.,J.)
02-06-2026

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

VSI

To

1. The Registrar General,
High Court of Madras, Chennai-104
2. The I Additional District Judge,
Tindivanam.



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

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