



W.P.No.17902 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2026

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.17902 of 2021

and

WMP.Nos.19107, 19109 & 19111 of 2021

V.C.Ramesh Rao

... Petitioner

vs

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.
2. The Directorate of Medical Education
Represented by its Director,
Kilpauk, Chennai – 600 010.
3. Institute of Child Health and Hospital for Children,
Represented by its Director and Superintendent,
Egmore, Chennai – 600 008.
4. The Accountant General (A&E).
No.361, Anna Salai,
Chennai – 600 018.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the



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third respondent in Ref.No.7631/E1/2/2018, dated 02.06.2021 and quash the same and consequently direct the respondents 3 & 4 to disburse the entire amount of Pensionary benefits, including gratuity to the petitioner on the basis of the letter of the third respondent in Ref.No.07631/E1(2)/2018 dated 10.12.2018 and pass orders.

For Petitioner : Mr.A.S.Badrinarayanan
for M/s.P.Wilson Associates
For Respondents : Mr.K.Tippusulthan
Government Advocate for R1 to R3
: Mr.V.Vijayshankar
Standing Counsel for R4

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondents and perused the records.

2. The petitioner by the present writ petition has assailed the action of the third respondent in issuing proceedings dated 02.06.2021 pursuant to the proceedings of the second respondent dated 15.04.2021, by which the respondents have sought to recover certain payments made to the petitioner while in service in the form of increments, Special Grade Pay, as set out in the impugned proceedings, and have sought for consent of the petitioner for the said recovery including revision and re-fixation of pay by making necessary entries in the Service Register.



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3. Petitioner contended that he had retired from service on 31.08.2018 as Skilled Assistant Grade – II after putting in 31 years of service; and that the post of Skilled Assistant Grade – II falls under Group – C category of employment and as such, the respondents could not have issued the impugned proceedings seeking to recover the alleged excess payment of Special Grade Pay, Annual increment, etc., 3 years after petitioner retiring from service.

4. On behalf of the petitioner, it is also contended that the issue of recovery in respect of Group C and D category of employee is no longer *res-integra* in view of the decision of the Hon'ble Apex Court in the case of ***State of Punjab & others Vs. Rafiq Masih (White Washer) reported in (2015) 4 SCC 334*** whereby the Hon'ble Apex Court had held that no recovery of any excess payment can be made in respect of the employees falling under Group C and D categories.

5. On behalf of the petitioner, it is further contended that since the aforesaid payments were made while the petitioner was in service and the respondents having not raised any objection for such payment and since the said payment having not been made on account of any misrepresentation by the



petitioner, the respondent cannot now take steps to recover the amount claiming the same as excess payment made.

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6. On behalf of the petitioner, it is further contended that insofar as re-fixation of his pension is concerned, no notice has been issued by the respondent before undertaking the aforesaid exercise, and as such, the impugned action of the respondent in seeking to revise and re-fix the pension without notice is in violation and cannot be sustained.

7. Per contra, learned Government Advocate appearing on behalf of the respondents while not disputing the settled position of law that in respect of Group C and D category of employees no recovery can be made after the employee retires from service, however submits that in the event of wrong fixation of pay or pension, the Authorities are entitled to re-fix the same.

8. The learned Government Advocate however fairly submits that the respondent authorities are required to put the concerned employee on notice before undertaking such re-fixation of pension.



9. Having regard to the submissions made by the respective counsel, since by the impugned order the third respondent sought the consent of the petitioner for recovery of the alleged excess amount paid, which, in the considered view of this Court, cannot be permitted in view of the law laid down by the Hon'ble Apex Court in the State of Punjab (Supra).

10. In view of the above, the impugned order to the extent of seeking to recover the alleged excess payment made to the petitioner towards annual increment, Special Grade Pay and other amounts as detailed in the letter dated 02.06.2021 cannot be allowed.

11. Accordingly, the impugned proceedings to the aforesaid extent is set aside.

12. Insofar as the revision and re-fixation of pension of the petitioner is concerned, since, the respondents claim of having issued show cause notice dated 07.10.2020 and 20.01.2021 to which the petitioner having submitted explanation on 25.01.2021 and as the impugned order does not refer to either the aforesaid show cause notices or explanation submitted by the petitioner being considered,



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this Court is of the view that the impugned order as passed by the third respondent revising and re-fixing the pension of the petitioner cannot be sustained as the same is passed in violation of principles of natural justice.

13. Accordingly, the impugned proceedings to the extent of revision and re-fixation is set aside and the matter is remitted back to the third respondent to consider the explanation submitted by the petitioner to the show cause notice dated 07.10.2020 and 20.01.2021 and pass orders afresh, in accordance with law, after granting opportunity of hearing the petitioner.

14. Accordingly, this Writ Petition is partly allowed. Consequently, connected Miscellaneous Petitions are closed. No order as to costs.

29.01.2026

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

dh



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To

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