



WEB COPY

W.P. No.18602 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2026

CORAM

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.18602 of 2023

and

W.M.P. No.17841 of 2023

M.Annadurai
S/o.Mahalingam,
No.2/217, Velliyampalayam Water Tank Quarters,
Sembianallur, Avinashi Taluk,
Tiruppur - 641 654.

..Petitioner(s)

Vs

1. The Director of Municipal Administration
No.78, Urban Administrative Buildings,
Santhome High Road, Raja Annamalaipuram,
Chennai- 600 028.
2. The Director of Local Fund Audit
Integrated Complex for Finance Department,
Animal Husbandry Hospital Complex,
Teynampet, Chennai- 600 035.
3. The Commissioner,
Tiruppur Corporation, Tiruppur.

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records in pursuant to the 1st impugned order issued by the 1st respondent in proceedings Rc. Lr. No. 45529 / F3 / 2010 dated 21.05.2015 and the 2nd impugned order issued by the 3rd respondent in proceedings Na.Ka. No.C1 / 3400 / 2013 dated 18.05.2023 and quash the same and to consequently direct the respondents (i) to restore the pre- revised pay of Rs.5200 - 20200 plus G.P. .1900 granted to the Petitioner in pursuant to G.O.Ms. No.338 Finance (Pay Cell) Department dated



26.08.2010, (ii) to repay the recovered amount and (iii) to grant all other consequential service and monetary benefits.

For Petitioner(s): Mr.R.Prem Narayan

For Respondent(s): Mr.G.Ameedius
Government Advocate (for R1 & R2)

Mr.D.R.Arun Kumar (for R3)

ORDER

The present writ petition is filed challenging the recovery proceedings dated 18.05.2023 based on the directions issued by the Directorate of Municipal Administration dated 21.05.2015.

2. It is submitted by the learned counsel for petitioner that petitioner was employed as an unskilled worker during the relevant period in respect of which recovery is sought to be made viz., from 23.05.2006 to 01.04.2022. Petitioner is presently working as Watchman based on G.O.Ms.No.338, Finance (Paycell) Department dated 26.08.2010. 1st respondent issued a communication dated 01.10.2012 whereby the Municipal Commissioner had directed to enhance / re-fix the pay of unskilled workers in the scale of Rs.5200-20200 + G.P. 1900. Thereafter, petitioner's pay was fixed in the said scale, subsequently, an audit objection was raised by the 2nd respondent. Pursuant to the audit objections, the impugned order was passed on the basis of the communication dated 21.05.2015.



3. It is submitted by both the learned counsel for petitioner as well as the respondents in unison that the impugned communication dated 21.05.2015 has been set aside by this Court in W.P.No.25765 of 2023. Furthermore, they would also submit that similar recoveries have also been set aside by this Court relying upon the decision of the Supreme Court in ***State of Punjab vs. Rafiq Masih (White Washer)*** reported in ***(2015) 4 SCC 344***. The relevant portions of the judgment of the Supreme Court is extracted 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 herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class~III and Class~IV service (or Group -C- and Group -D- service).

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

(iii) Recovery from 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 be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

4. In view thereof, the impugned order dated 18.05.2023 is set aside insofar as recovery of alleged excess pay to petitioner and the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

25-03-2026

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

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MOHAMMED SHAFFIQ J.

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