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WP No. 23132 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-06-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP No. 23132 of 2026

and

WMP Nos. 25073 & 25074 of 2026

Latha
W/o K.K. Subramaniam
Steno - Typist Grade I,
Special Court for SC / ST Act cases
Namakkal

..Petitioner(s)

Vs

1. The Registrar General
High Court of Madras, Chennai-104
2. The principal District judge
Namakkal District, Namakkal
3. The Session Judge
Special Court for SC / ST act Cases,
Namakkal

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India to call for the records with respect of the impugned proceedings of the third respondent in Roc. No 105/ 2025 dated 10.12.2025 and quash the same and pass

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For Petitioner(s): Mr.R.Nalliyappan

For Respondent(s):

Order

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

The writ Petition has been filed challenging the order passed by the



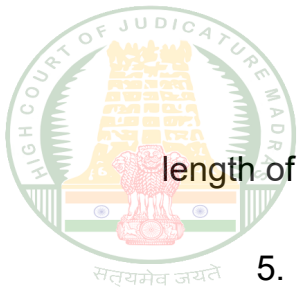
third respondent, recovering excess pay and allowances to the petitioner from 31-05.2008 to 30.11.2025.

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2. The petitioner was appointed as Steno-Typist Grade-III on 10.09.2001 through Tamil Nadu Public Service Commission. She passed Account Test for Subordinate Officers Part-I and was sanctioned one advance increment Subsequently, she was promoted as Assistant and served from 01.04.2015 to 16.02.2017. She was later promoted as Steno Typist Grade-I and continues in the said post. During audit conducted by the Internal Audit Wing for the years 2021-2022 to 2023 to 2024, an audit objection was raised stating that the petitioner was not entitled to the advance increment granted for passing Account Test Part -I and that excess salary had been paid to her. A show cause notice dated 18.09.2025 was issued proposing to recover the excess salary. The petitioner submitted her explanation which was not considered and the impugned order dated 10.12.2025 came to be passed.

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.

(iv) Recovery in cases where an employee has wrongfully been required to discharge

¹2015 4 SCC 334



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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.

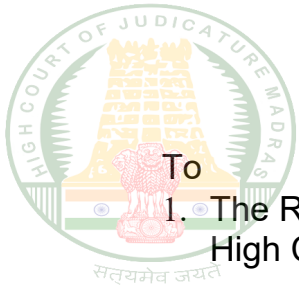
6. In view of the facts and circumstances, the revision of pay effected pursuant to the Audit Objection is confirmed, but the recovery of excess pay alone is set aside. The excess amount, if any already recovered on account of the impugned order is directed to be re-paid to the petitioner within a period 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. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) (N.S.,J.)
19-06-2026

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 principal District judge
Namakkal District, Namakkal
3. The Session Judge
Special Court for SC / ST Act Cases,
Namakkal

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**S.M.SUBRAMANIAM J.
and
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