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

WP No. 23474 of 2026

T.Karunanithi

..Petitioner(s)

Vs

1. The Registrar General
   High Court of Madras, Chennai-104

2. The Sub Judge,
   Gingee
   Villupuram

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India issuing writ of certiorarirfied mandamus to call for the records of Office order No.110/2025 dated 27.11.2025 passed by 2nd respondent for recovery of excess pay and allowance of Rs.5,60,882/- from petitioner and quash the same and consequently direct the respondents 1 and 2 to remit back the recovered amount to petitioner

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

For Respondent(s): Mr.E.V.Chandru alias Mr.E.Chandrasekaran

ORDER

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

Writ on hand has been instituted to set aside the Office order No.110/2025 dated 27.11.2025 passed by 2nd respondent for recovery of excess pay and allowance of Rs.5,60,882/- from petitioner and direct the respondents 1 and 2 to remit back the recovered amount to petitioner.

2. The petitioner was initially appointed as Night Watchman on 01.03.2000, and later promoted to the post of Office Assistant on 01.10.2007 with effect from 21.12.2007. The petitioner was sanctioned one increment for his promotion. Writ petitioner was informed through impugned proceedings in Office Order No. 110/2025 dated 27.11.2025, that pursuant to the internal audit wing of the High Court, the grant of sanction of one increment was held inadmissible to the petitioner as Class IV Employees may be appointed to Class III posts only by way of transfer of service and not by promotion, even though the scale of pay for the above posts are identical. Based on the audit objection, the pay was revised accordingly, and excess pay and allowances paid to the petitioner was sought to be recovered from his salary.

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.*

[1] 2015 4 SCC 334

> *(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 made in Office order No.110/2025 dated 27.11.2025 passed by 2nd respondent 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.

(S.M.S.,J.) (N.S.,J.)
23-06-2026

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

GD

To

1. The Registrar General
   High Court of Madras, Chennai-104
2. The Sub Judge,
   Gingee
   Villupuram

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

GD

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