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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-06-2026

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THE HON'BLE MS. JUSTICE P.T. ASHA

WP No. 28475 of 2025

V.Ramachandran
S/o. Late R. Vedaraman
Residing at No.4, Vasantham Street
Madipakkam, Chennai-600 091.

..Petitioner

Vs

1. The Government of Tamil Nadu
Rep. by the Secretary,
Higher Education (G2) Department
Secretariat, Chennai-600 009.
2. The Director of Collegiate Education
College Road, Chennai-600 006.
3. The Principal and Correspondent
Justice Basheer Ahmed Sayeed College For Women
Old No.310, New No.56,
K.B. Dasan Road, Teynampet
Chennai-600 018.

..Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue of Certiorarified Mandamus, to call for the records in pursuant to the impugned order issued by the third respondent in Memorandum dated 02.07.2025 and quash the same and to consequently direct the respondents 1 to 3 (i) to restore the pay of the petitioner and to accordingly refix his last drawn pay on par with his junior Mr. Naser Ahmed (ii) to pay the arrears of salary of the petitioner and pass orders.



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For Petitioner:

Mr.S.Syed Basha

For Respondents:

Mr.K.Sathish

Government Advocate for R1 & R2

Mr.Niranjan Rajagopalan
of M/s.G.R.Associates for R3

ORDER

The writ petition has been filed seeking the following relief :

“ To call for the records in pursuant to the impugned order issued by the third respondent in Memorandum dated 02.07.2025 and quash the same and to consequently direct the respondents 1 to 3 (i) to restore the pay of the petitioner and to accordingly refix his last drawn pay on par with his junior Mr. Naser Ahmed (ii) to pay the arrears of salary of the petitioner. ”

2. The petitioner was appointed as Record Clerk in the 3rd respondent-College on 02.09.1993. He was promoted to the post of Junior Assistant on 01.06.2007 and thereafter, to the post of Assistant on 01.10.2017 with basic pay of Rs.34,000/- with retrospective monetary benefit. The petitioner would submit that the Joint Director of College Education, Chennai Region, Chennai-15, had addressed a communication to the respondent-College stating that the petitioner has been paid the excess pay and hence, directed the respondent-College to recover the same from the petitioner's salary. Pursuant



to the said communication, the petitioner has not been paid his salary from September 2024 to February 2025 and also for the month of April 2025.

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3. In this regard, the petitioner had submitted his representation to the 3rd respondent on 19.05.2025, requesting to disburse his salary for the said period. He would submit that Government had issued necessary orders stating that the Employees / Teachers who were promoted to higher post after 01.01.2006 are eligible for 3% benefit of the Grade Pay and accordingly, he is entitled to the time scale of Rs.9300-4000 for the post of Assistant. The petitioner would also plead that his junior Mr.K.Naser Ahmed, Selection Grade Junior Assistant is enjoying the higher scale of pay than his, and hence, he seeks to refix his salary on par with his junior Mr.K.Naser Ahmed.

4, While so, the respondent-College issued a memorandum dated 26.05.2025 to the petitioner stating the excess salary of Rs.25,71,512, paid to him from 01.08.2005 to 31.08.2024 will be recovered from the petitioner in equal instalments of total 101 months from September 2024 to February 2025 and April 2025 to February 2033. The deduction of recovery sum for every month is around Rs.25,460/-. Subsequently, the impugned memorandum dated 02.07.2025 came to be issued by the respondent-College modifying the alleged recovery amount to Rs.25,73,512/-. Aggrieved by the said impugned order, the petitioner is before this Court.



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5. The learned counsel appearing for the petitioner has brought to the notice the judgment of the Hon'ble Supreme Court in ***State of Punjab and others Vs Rafiq Masih (White Washer) and others*** reported in (2015) 4 SCC 334, in which the Hon'ble Supreme Court had laid down the conditions where recovery by the employers was impermissible in law.

6. Heard the learned counsel appearing on both side and also perused the materials on record.

7. The issue is squarely covered by the judgment of the Hon'ble Supreme Court in ***State of Punjab and others Vs Rafiq Masih (White Washer) and others*** reported in (2015) 4 SCC 334. The Hon'ble Supreme Court had ultimately summarised the issue of recovery where payments have been mistakenly paid by the employer in excess of the entitlement. It had also detailed the situation where recovery was impermissible and the same is extracted hereunder :

“ 18. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law :

1. Recovery from the employees belonging to Class III and



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Class IV service (or Group C and Group D service).

2. *Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.*
3. *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.*
4. *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.*
5. *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.”*

8. In the light of the aforesaid judgment, the impugned order is liable to be set aside. Further, it is settled proposition that the principles of natural justice requires issuance of prior show cause notice, proposing such a recovery and calling for the objections of the employees on the proposal. In the absence of such a show cause notice, the order of recovery cannot be sustained. Further, the refixation has been done without notice to the petitioner. On this ground also, the impugned order is liable to be set aside.



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9. Accordingly, the writ petition is allowed as below :

(a) The impugned proceedings of the 3rd respondent-College dated 02.07.2024 is hereby quashed. The 3rd respondent is directed to refund the sum if any, which was recovered from the petitioner, within a period of one month from the date of receipt of a copy of this order.

(b) Insofar as the other relief of re-fixation of pay on par with his junior is concerned, the 3rd respondent / authority concerned is directed to consider the representation of the petitioner, after affording an opportunity of personal hearing to the petitioner to put across his objections to the refixation of pay, and necessary orders be passed within a period of two months thereafter.

No costs.

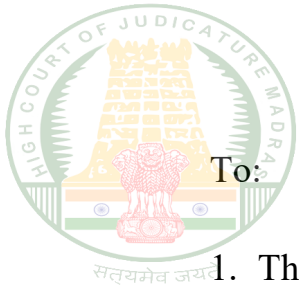
08.06.2026

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes/No

DS



To:

1. The Secretary
Government of Tamil Nadu
Higher Education (G2) Department
Secretariat, Chennai-600 009.
2. The Director of Collegiate Education
College Road, Chennai-600 006.
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P.T.ASHA,J.,

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