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WP No. 29005 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-03-2026

CORAM

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

WP No. 29005 of 2022

T.G.Balachandran (Senior Citizen)
S/o.Govindasamy, No.8, Vignesh Nagar,
Kollumedu Village, Chennai-600 062.

..Petitioner

Vs

1. The Secretary
Government of Tamil Nadu,
Public Works Department,
Fort St.George, Chennai-600 009.
2. The Secretary
Government of Tamil Nadu,
Finance Department,
Fort St.George, Chennai-600 009.
3. The Chief Engineer (Buildings) General
Public Works Department,
Chepauk, Chennai-600 005.
4. The Executive Engineer
Public Works Department, Building
Maintenance Division, Medical Works,
Chepauk, Chennai-600 005.
5. The Assistant Executive Engineer
Public Works Department,
Building Maintenance Division,
Medical Works, Sub Division-3,
Egmore, Chennai-600 008.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India, pleaded
to issue a Writ of Certiorarified Mandamus, to call for the records relating to the



order of the 5th respondent made in Proceedings No.121M / U.Che.Po. / Ka.Pa. U.Ko.3 / Ma. Pa. / 2022 dated 11.07.2022, quash the same and consequently directing the respondents to refund the sum of Rs.1,46,336/- which was recovered from the retirement benefits of the petitioner.

For Petitioner(s): Mr.A.Subramani

For Respondent(s): MR. V.Jeevagiridharan,
Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order dated 11.07.2022, whereby consequent to the reduction in petitioner's Grade Pay from Rs.4,400/- to Rs.2,800/- a sum of Rs.1,46,336/- was found to be due and the same was sought to be recovered from his retirement benefit. The same is challenged by the petitioner as being illegal, unjustified and arbitrary.

2. Petitioner served as a Time Keeper/Skilled Assistant Grade II in Public Works Department and retired from service on superannuation on 31.10.2015 as per the order of 5th respondent dated 29.10.2015. Petitioner would submit that on the date of his superannuation, he had completed 35 years and 10 months of continuous service.

3. It is submitted that during the course of his employment, inasmuch as the posts held by the petitioner did not provide any avenue for promotion, he



was also paid the higher grade of pay at Rs.4,400/- instead of Rs.2,800/- during the period 01.04.2013 to 31.10.2015. Petitioner would further submit that he is a Group-D employee and that the impugned order seeking recovery is contrary to the law laid down by the Supreme Court in the case of *State of Punjab and others etc. Vs. Rafiq Masih (White Washer) etc.* made in *Civil Appeal No.11527 of 2014 (White Washer case)*.

4. Learned counsel for respondents would submit that even at the time when the Grade Pay was re-fixed, it was indicated that in case there is any error in re-fixation, the same would be liable to be recovered from his salary. The relevant portion is extracted hereunder:

“இந்த ஊதிய நிர்ணயத்தால் ஏற்படும் நிலுவை தொகை 01.4.2013 முதல் பெற தகுதியுடையவர் என்றும் பிற்காலத்தில் இந்த ஊதிய நிர்ணயம் தவறு என தெரியவரின் அத்தொகை ஊதியத்தில் முழுவதும் பிடித்தம் செய்யப்படும் எனவும் தெரிவித்துக் கொள்ளப்படுகிறது.”

5. Learned Additional Government Pleader would place reliance on the recent judgment of the Hon'ble Supreme Court in the case of *High Court of Punjab & Haryana & Ors. Vs. Jagdev Singh*, made in *Civil Appeal No.3500 of 2006*, and submit that this is one of those cases in which reliance on *White Washer's* case may be misplaced, inasmuch as petitioner had also agreed to



recovery of the excess pay, due to erroneous fixation of Grade Pay vide letter dated 26.11.2015.

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6. In the case of ***High Court of Punjab & Haryana & Ors. Vs. Jagdev Singh***, which dealt with the recovery sought from the Additional Civil Judge, as a matter of fact, it was found that even when the respondent opted for the revised pay scale, he furnished an undertaking that he would be liable to refund any excess payment made to him. It was thus found that the respondent therein was placed on notice for any payment found to be made in excess would be required to be refund. The relevant portion of the same is extracted hereunder:

“8. The order of the High Court has been challenged in these proceedings. From the record of the proceedings, it is evident that when the Respondent opted for the revised pay scale, he furnished an undertaking to the effect that he would be liable to refund any excess payment made to him. In the counter affidavit which has been filed by the Respondent in these proceedings, this position has been specifically admitted. Subsequently, when the rules were revised and notified on 7 May 2003 it was found that a payment in excess had been made to the Respondent. On 18 February 2004, the excess payment was sought to be recovered in terms of the undertaking.

9. The submission of the Respondent, which found favour with the High Court, was that a payment which has been made in excess cannot be recovered from an employee who has



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retired from the service of the state. This, in our view, will have no application to a situation such as the present where an undertaking was specifically furnished by the officer at the time when his pay was initially revised accepting that any payment found to have been made in excess would be liable to be adjusted. While opting for the benefit of the revised pay scale, the Respondent was clearly on notice of the fact that a future re-fixation or revision may warrant an adjustment of the excess payment, if any, made.

10. In State of Punjab & Ors etc. vs. Rafiq Masih (White Washer) etc. this Court held that while it is not possible to postulate all situations of hardship where payments have mistakenly been made by an employer, in the following situations, a recovery by the employer 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.” (emphasis supplied).

11. The principle enunciated in proposition (ii) above cannot apply to a situation such as in the present case. In the present case, the officer to whom the payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded. The officer furnished an undertaking while opting for the revised pay scale. He is bound by the undertaking.”

7. Coming back to **White Washer**'s case wherein it has been stated that if payments have been mistakenly made by an employer, recovery by the employer may not be permissible in the following circumstances:

“(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.”

8. Learned counsel for petitioner would submit that the present case would squarely be covered by the judgment of the Supreme Court in **White Washer**'s case for the following reasons.

- a) Petitioner is a Group –D Employee
- b) Unlike **Jagdev Singh**'s case there was no undertaking given at the time of the revised fixation of the Grade Pay wherein the petitioner agreed to refund.

He was only placed on notice that payment of excess grade pay would be recovered from the salary. But what is now sought to be recovered is the excess payment from the retirement benefits and thus even the proceedings dated 29.12.2014 which is sought to be relied upon may not be of any assistance.

9. In that view of the matter, this Court is inclined to set aside the impugned order dated 11.07.2022. In case, excess payment of grade pay has been recovered from petitioner, the State shall refund the amount to petitioner within a period of four weeks from the date of receipt of a copy of this order.



10. The Writ Petition stands disposed of with the above observation.

There shall be no order as to costs.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

jv

To

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Public Works Department,
Fort St.George, Chennai-600 009.

2. The Secretary
Government of Tamil Nadu,
Finance Department,
Fort St.George, Chennai-600 009.

3. The Chief Engineer (Buildings) General
Public Works Department,
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4. The Executive Engineer
Public Works Department, Building Maintenance Division,
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