IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **02.04.2026**

CORAM

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

W.P.No. 30900 of 2023

and

W.M.P.No.30553 of 2025

C.Saroja …. Petitioner

Vs

1. The Central Administrative Tribunal-
   Chennai Bench, Rep.by its Registrar,
   Additional City Civil Court Buildings
   High Court Campus, Chennai.

2. Union of India
   Rep.by Secretary
   Ministry of Information and Broadcasting
   'A' Wing, Shastri Bhavan
   New Delhi – 110 001.

3. Prasar Bharati Secretariat
   Rep.by the Chief Executive Officer
   Mandi House, Copernicus Marg
   New Delhi.

4. The Director General
   All India Radio
   Akashvani Bhavan
   Parliament Street
   New Delhi – 110 001.

5. The Deputy Director (Admin)
   All India Radio, Akashvani Bhavan
   Parliament Street, New Delhi – 110 001.

6. The Deputy Director General (Engg.)/HOO
   All India Radio, Kamarajar Salai,
   Mylapore, Chennai.

7. Pay & Accounts Officer
   All India Radio,
   Kamarajar Salai,
   Mylapore, Chennai – 600 004. …. Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying to issuance of Writ of Certiorarified Mandamus, to call for the records in connection with an impugned order passed by the 1st respondent Tribunal in O.A.No.589 of 2020 dated 02.03.2023, and quash the same, consequently direct the respondents to place the case of the petitioner before the Department of Expenditure for obtaining an express approval for waiver, as done in the case of Shri Kannan, Steno Gr.I (a similarly placed employee of Doordarshan, Chennai) as per OM dated 02.03.2016.

For Petitioner	:	Mr.D.Muthukumar for M/s.Paul and Paul
For Respondents	:	R1 – Tribunals Mr.V.Chandrasekaran Senior Panel Counsel for R2 to R7

ORDER

(Order of the Court was made by P.VELMURUGAN, J.)

The petitioner has instituted the present Writ Petition assailing the order dated 02.03.2023 passed by the first respondent-Tribunal in O.A.No.589 of 2020 and seeking a consequential direction to the respondents to place her case before the Department of Expenditure for obtaining express approval for waiver, on par with the treatment extended to Shri Kannan, Stenographer Grade-I, Doordarshan, Chennai, under Office Memorandum dated 02.03.2016.

2. The petitioner was initially appointed as Stenographer Grade-III (Tamil) on 20.06.1992 in a temporary capacity. Subsequently, she was regularised and placed on probation for two years. Thereafter, she was granted the first financial upgradation under the ACP Scheme with effect from 15.06.2004, pursuant to which, her designation was upgraded to Stenographer Grade II. By notification dated 07.12.2017, the post of Stenographer Grade II was classified under Group 'C'. Her pay was initially fixed in terms of the VI Central Pay Commission by adopting the upgraded scale of Rs.6500-10500, with effect from 01.01.2006. Subsequently, by proceedings dated 03.10.2012, her pay was re-fixed by taking into account the upgraded scale of Rs.6500-10500 for determining the basic pay in the revised pay band, which was also affirmed by the Prasar Bharati Secretariat. Thereafter, a clarification dated 31.12.2015, mandated multiplication of the existing pay by a factor of 1.86 (the fitment formula under the Sixth Pay Commission) with rounding off, resulting in further re-fixation on 27.01.2016, whereby the petitioner's basic pay was reduced from Rs.12,090/- to Rs.10,230/-. Aggrieved thereby, the petitioner submitted representations relying upon judicial precedents and orders of the Tribunal, wherein the recovery of excess payment had been waived in analogous circumstances. Notwithstanding the same, the sixth respondent issued a show cause notice on 06.11.2020, proposing recovery of Rs.6,24,984/- and by order dated 14.12.2020, directed recovery in 36 installments. The petitioner's challenge before the Tribunal in O.A.No.589 of 2020 was dismissed on

02.03.2023. Hence, she has filed the present writ petition.

3. The learned counsel for the petitioner contended that the recovery directed against the petitioner is unsustainable in law, being contrary to the binding principles laid down by the Hon'ble Supreme Court in *State of Punjab v. Rafiq Masih (White Washer)* [(2015) 4 SCC 334], wherein it has been held that recovery of excess payments from Group 'C' and Group 'D' employees is impermissible, in the absence of misrepresentation or fraud, particularly when such recovery is sought after a lapse of five years. He further submitted that at the time of re-fixation on 03.10.2012, the petitioner was a Group 'C' employee, and the subsequent reclassification of her post as Group 'B' cannot retrospectively deprive her of the protection extended under the *Rafiq Masih (White Washer)* case. Further, the recovery has been ordered after more than eight years of continuous payment, which is well beyond the permissible five-year period, and that the relevant date for reckoning such limitation is the date of order of recovery and, not the date of re-fixation. The petitioner had acted *bona fidely*, and the excess payment arose solely on account of the inconsistent and contradictory stands of the respondents. It is also contended that the reliance placed on the undertaking furnished in 2008 is legally untenable, since no undertaking was given at the time of re-fixation in 2012, thereby rendering the decision in the case of *High Court of Punjab & Haryana v. Jagdev Singh* [(2016) 14 SCC 267] is inapplicable, since that decision turned on the existence

of a specific and contemporaneous undertaking. Further, the Office Memorandum issued by the Department of Personnel and Training, dated 06.02.2014 and 02.03.2016 mandates express approval of the Department of Expenditure for waiver of recovery, which was not obtained in the present case, and the unilateral decision of the 5th respondent, based on an erroneous understanding of law, vitiates the order. The Tribunal's distinction of *K.Kannan* case is equally untenable, as the decisive factor was the lapse of more than five years before recovery, which squarely applies to the petitioner's case. In these circumstances, the impugned order of recovery is arbitrary, contrary to settled law, and liable to be set aside.

4. Per contra, the learned counsel for respondents 2 to 7 submitted that the petitioner was initially appointed as Stenographer Grade-III under the Group 'C' category. Subsequently, the cadre was re-designated as Stenographer Grade-II, and thereafter merged with Stenographer Grade-I carrying Grade Pay of Rs.4,200/-, which falls within Group 'B'. Upon completion of 12 years of service, the petitioner was granted the benefit of Assured Career Progression (ACP) in Grade Pay Rs.4,200/- and was later extended 2nd Modified Assured Career Progression (MACP) in the Grade Pay of Rs.4,600/-, thereby enjoying all benefits of a Group 'B' post. It was further submitted that after implementation of the VI Central Pay Commission, classification of posts is

determined based on pay scales. The petitioner, by virtue of her present pay, squarely falls under Group 'B'. The contention of the petitioner that she ought to be treated as a Group 'C' employee on the basis of her initial appointment is untenable, as the post of Stenographer Grade-III with Grade Pay Rs.2,400/- continues to exist independently, whereas the petitioner has long since moved into the higher cadre. The erroneous fixation of pay effected in January 2013 was duly rectified on 27.01.2016, which remains undisputed. It is contended that the principles laid down in *Rafiq Masih* (White Washer's case) are inapplicable to the case of the petitioner, as she cannot be categorized as a Group 'C' or Group 'D' employee drawing lower pay, but she is, in fact, a Group 'B' officer receiving higher pay and allowances. The exemption from recovery contemplated in the said judgment and reiterated in DoPT Office Memorandum dated 02.03.2016, is intended to extend protection only to employees in the lower categories, and not those in Group 'B' posts. The petitioner is due to retire only on 30.06.2028, and therefore, the embargo against recovery within one year of retirement, is not attracted. The cause of action arises only from the pay structure evolved under the VI Pay Commission, pursuant to which, the petitioner has been rightly classified under Group 'B'. In such circumstances, the Tribunal has correctly held that recovery is permissible. Hence, the writ petition is devoid of merits and the same is liable to be dismissed.

5. We have heard the learned counsel on either side and perused the materials available on record.

6. The core issue that arises for consideration is whether the recovery of alleged excess payment effected by the respondents, as confirmed by the Tribunal, is legally sustainable.

7. It is not in dispute that the alleged excess payment arose solely on account of an erroneous fixation of pay carried out by the respondents, and not due to any misrepresentation or fraud on the part of the petitioner. Such excess payment continued for a prolonged period exceeding five years before the impugned recovery was initiated. In this context, the law laid down by the Hon'ble Supreme Court in the above said case in *State of Punjab Vs.Rafiq Masih (White Washer)* squarely governs the present case. The Hon'ble Apex Court categorically held that recovery of excess payments from employees belonging to Group 'C' and 'D' in the absence of misrepresentation or fraud, is impermissible in law, particularly when such recovery is sought after a prolonged period. The said principle is to prevent undue hardship to employees who had no role in the error and had received the amounts *bona fidely*.

8. For better appreciation, the relevant portion of the said judgment is extracted hereunder :

> *"(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."

9. In the present case, even assuming that the petitioner is presently working as a Stenographer Grade-I, which falls under Group 'B' category, it is admitted that at the time of re-fixation in the year 2012, she was holding a post classified under Group 'C' post. The subsequent re-classification or upgradation of the post, cannot retrospectively alter the character of the petitioner's service so as to deprive her of the protection available under the Rafiq Masih case (White Washer Case). Further, the recovery proceedings were initiated only in the year 2020, nearly eight years after the re-fixation in 2012 and more than four years after the subsequent re-fixation in 2016. Such belated recovery clearly falls within the prohibited category identified by the Hon'ble Supreme Court, wherein recovery after a lapse of more than five years, had been held to

be impermissible. However, the Tribunal failed to properly appreciate the binding nature of the principles laid down in Rafiq Masih case (White Washer's case) and erred in placing undue emphasis on the present classification of the petitioner's post, while overlooking the relevant period during which the excess payment was made. The reasoning adopted by the Tribunal is therefore vitiated by misapplication of settled legal principles.

10. In such circumstances, this Court is of the considered opinion that the impugned order dated 02.03.2023 passed in O.A.No.589 of 2020 by the first respondent- Tribunal, is unsustainable in law and liable to be set aside.

11. Accordingly, the writ petition stands allowed. The impugned order is set aside. The respondents are directed to fix the pay of the petitioner in accordance with the relevant applicable Rules. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(P.V.,J.) (K.G.T.,J.)

02.04.2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Case Citation: Yes/No

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To

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