IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2026

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.47695, 47697, 26183 and 26188 of 2025
And
W.M.P.No.29494 of 2025

S.Subramanian … Petitioner in W.Ps.47695, 47697/2025

T.K.Purushothaman … Petitioner in W.Ps.26183, 26188/2025

Vs.

1. The State Of Tamilnadu
   Rep. by its Secretary to Government,
   Health and Family Welfare Department,
   Fort St.George,
   Chennai – 600 009.

2. The Director,
   Public Health and Preventive Medicine Department,
   Chokkalingam Nagar,
   Teynampet,
   Chennai – 600 006.

3. The District Health Officer
   (Formerly named as Deputy Director of Health Services),
   District Health Office,
   Kancheepuram District – 631 501.

4. The Accountant General (Accounts and Entitlements),
   Tamil Nadu, No.361, Anna Salai,
   Teynampet,
   Chennai – 600 018.

5. The Block Medical Officer
Community Health Centre,
Manampathy,
Uthiramerur Taluk,
Kancheepuram District – 603 403.

6. The District Treasury Officer,
District Treasury Office,
Kancheepuram District – 631 501.

7. The Assistant Treasury Officer,
Sub-Treasury Office,
Uthiramerur,
Kancheepuram District – 603 406.

... Respondents in W.Ps.47695, 47697/2025

1 The State Of Tamilnadu
Rep. by its Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai – 600 009.

2 The Director,
Public Health and Preventive Medicine Department,
Chokkalingam Nagar,
Teynampet,
Chennai – 600 006.

3 The District Health Officer,
Collectorate Campus,
Dharmapuri District – 636 705.

4 The Accountant General (Accounts and Entitlements),
Tamil Nadu, No.361, Anna Salai,
Teynampet,
Chennai – 600 018.

5. The District Treasury Officer,
   Collectorate, Dharmapuri District,
   Dharmapuri – 636 705.

... Respondents in W.Ps.26183, 26188/2025

Prayer in W.P.No.47695 of 2025:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Office of Accountant General (A&E), Tamil Nadu, Chennai 4th respondent herein to pay the pension on basic pay of Rs.34,750/- instead of Rs.36,850/- with eligible allowances every month without any deduction to the petitioner by commuting the pay of the petitioner on the date of retirement by merging the 5% PP with the revised scale of pay as on 10.09.1998.

Prayer in W.P.No.47697 of 2025:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the Office of Accountant General (A&E), Tamil Nadu, Chennai dated 31.05.2019 having Ref.No.AG (A&E)/PEN PO6/10621447/3/R0621447 and having Ref.No.P08/4/10823980/ADK dated 25.09.2019 issued by the 4th respondent herein and quash the same in so far as the Office of the Accountant General (A&E), Tamil Nadu, Chennai holds that Personal Pay of 5% is allowed only on the pre revised scale of pay and not in the revised scale of pay and consequently direct the Block Medical Officer, Community Health Centre, Manampathi, 5th respondent herein to refund the sum of Rs.3,18,610/- to the petitioner along with interest at 12% till date of refund.

Prayer in W.P.No.26183 of 2025:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the Office of Accountant General (A&E), Tamil Nadu, Chennai dated 27.06.2024 having Ref No.PO8/3/10829334/ADK and 04.11.2024 having Ref.No.AG (A&E)/PEN/PO8/10830153/4/R0830153 4th respondent herein and quash the same in so far as the Office of the Accountant General (A&E), Tamil Nadu, Chennai holds that Personal Pay of 5% is allowed only on the pre revised scale of pay and not in the revised scale of pay and consequently direct the District Treasury, Dharmapuri 5th respondent herein to refund the sum of Rs.6,60,552 to the petitioner along with interest at 12% till date of refund.

Prayer in W.P.No.26188 of 2025:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Office of Accountant General

(A&E), Tamil Nadu, Chennai 4th respondent herein to pay the pension amount of Rs.44,500/- every month without any deduction to the petitioner by commuting the pay of the petitioner on the date of retirement by merging the 5% PP with the revised scale of pay as on 01.09.1998.

For Petitioners : Mrs.Nalini Chidambaram
Senior Counsel
for M/s.C.Uma
in all the W.Ps.

For Respondents : Mr.K.Tippu Sulthan
Government Advocate
for R1, R2, R3 & R5
in W.Ps.26183, 26188/2025
for R1, R2, R3, R5, R6 & R7
in W.Ps.47695, 47697/2025

Ms.G.Vardhini Karthik for R4
in W.Ps.26183, 26188/2025

Mr.Manorajan for R4
in W.Ps.47695, 47697/2025

C O M M O N O R D E R

Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order.

2.W.P.No.47695 of 2025 has been filed seeking issuance of Writ of Mandamus directing the Office of Accountant General (A&E), Tamil Nadu, Chennai 4th respondent herein to pay the pension on basic pay of Rs.34,750/- instead of Rs.36,850/- with eligible allowances every month without any deduction to the petitioner by commuting the pay of the petitioner on the date of retirement by merging the 5% PP with the revised scale of pay as on 10.09.1998.

3.W.P.No.47697 of 2025 has been filed seeking issuance of Writ of Certiorarified Mandamus calling for the records of the Office of Accountant General (A&E), Tamil Nadu, Chennai dated 31.05.2019 having Ref.No.AG (A&E)/PEN PO6/10621447/3/R0621447 and having Ref.No.P08/4/10823980/ADK dated 25.09.2019 issued by the 4th respondent herein and quash the same in so far as the Office of the Accountant General (A&E), Tamil Nadu, Chennai holds that Personal Pay of 5% is allowed only on the pre revised scale of pay and not in the revised scale of pay and consequently direct the Block Medical Officer, Community Health Centre, Manampathi, 5th respondent herein to refund the sum of Rs.3,18,610/- to the petitioner along with interest at 12% till date of refund.

4.W.P.No.26183 of 2025 has been filed seeking issuance of Writ of Certiorarified Mandamus calling for the records of the Office of Accountant General (A&E), Tamil Nadu, Chennai dated 27.06.2024 having Ref No.PO8/3/10829334/ADK and 04.11.2024 having Ref.No.AG (A&E)/PEN/PO8/10830153/4/R0830153 4th respondent herein and quash the same in so far as the Office of the Accountant General (A&E), Tamil Nadu, Chennai holds that Personal Pay of 5% is allowed only on the pre revised scale of pay and not in the revised scale of pay and consequently direct the District Treasury, Dharmapuri 5th respondent herein to refund the sum of Rs.6,60,552/- to the petitioner along with interest at 12% till date of refund.

5.W.P.No.26188 of 2025 has been filed seeking issuance of Writ of Mandamus directing the Office of Accountant General (A&E), Tamil Nadu, Chennai 4th respondent herein to pay the pension amount of Rs.44,500/- every month without any deduction to the petitioner by commuting the pay of the petitioner on the date of retirement by merging the 5% PP with the revised scale of pay as on 01.09.1998.

6.The brief facts of the case is that the petitioners were appointed as Leprosy Inspector on 10.09.1988 and 11.03.1988 respectively and was subsequently re-designated as Health Inspector Grade-I pursuant to various Government Orders. According to the petitioners, 5% Personal Pay (PP) which was sanctioned under G.O.Ms.No.664 dated 24.08.1992, was rightly merged with their revised scale of pay as per the proceedings of the second respondent dated 27.07.2015, and their pay was fixed accordingly upon award of Selection Grade. While so, the fourth respondent, by proceedings dated 31.05.2019 & 25.09.2019 and 27.06.2024 & 04.11.2024 respectively, held that the 5% Personal Pay ought to have been merged only with the pre-revised scale of pay and not with the revised scale, resulting in reduction of the petitioners last drawn salary and consequent reduction of pension. Further, a sum of Rs.3,18,610/- and Rs.6,60,552/- respectively, was ordered to be recovered treating the same as excess pay drawn, which amount was remitted by the petitioners after the retirement on 30.06.2019 and 30.06.2024 respectively. Aggrieved by the cancellation of 5% Personal Pay in the revised scale, reduction of pension from Rs.36,850/- to Rs.34,750/- and from Rs.44,500/- to Rs.41,950/- respectively, and recovery of Rs.3,18,610/- and Rs.6,60,552/- respectively, the petitioners have filed the present writ petitions seeking to quash the impugned proceedings and for a consequential directions to refix the pension and refund the recovered amount.

7.The learned Senior Counsel appearing for the petitioners submitted that the petitioners were only re-designated from Leprosy Inspector to Health Inspector Grade-I and was neither promoted nor upgraded, and therefore, the benefits already granted, including 5% Personal Pay, cannot be withdrawn. It is further submitted that as per the proceedings of the second respondent dated 27.07.2015, the 5% Personal Pay was rightly merged with the revised scale of pay and the petitioner’s pay was fixed accordingly. The learned Senior Counsel further contended that in respect of several similarly placed employees, the Office of the fourth respondent itself has accepted merger of 5% Personal Pay with the revised scale of pay and therefore the impugned action is arbitrary and discriminatory. It is also submitted that the petitioners had not made any misrepresentation and the alleged excess payment, if any, occurred only due to departmental fixation.

8.Placing reliance upon the decision of the Hon'ble Supreme Court in ***State of Punjab vs. Rafiq Masih (White Washer)***, reported in [(2015) 4 SCC 334], it is contended that recovery from a retired employee is impermissible in law. It is further submitted that a learned Single Judge of this Court in W.P.No.39714 of 2025, following the aforesaid judgment, has held that in view of G.O.Ms.No.286, dated 28.08.2018, no recovery can be made from retired employees or in cases where the excess payment had been made for a period exceeding five years prior to the order of recovery, and accordingly set aside the impugned order therein. Therefore, present recovery of Rs.3,18,610/- and Rs.6,60,552/- respectively, from the petitioners after retirement is wholly unsustainable in law and liable to be quashed.

9.Mr.K.Tippusulthan, learned Government Advocate submitted that as per G.O.Ms.No.110, Health and Family Welfare Department, the 5% Personal Pay is admissible only in the pre-revised scale of pay applicable to the post of Leprosy Inspector and not in the revised scale of pay of Health Inspector Grade-I, since the said post does not carry Personal Pay. Therefore, the fourth respondent, while scrutinizing the Service Book at the time of retirement, noticed wrong fixation of pay and directed correction in accordance with the Government Order and relevant Fundamental Rules. It is further submitted that as per Fundamental Rule 23, the pay ought to have been fixed in the same stage or next higher stage available in the appropriate scale and upon proper refixation, it was found that excess pay and allowances had been drawn by the petitioners. Consequently, the pensionary benefits were calculated based on the corrected last drawn emoluments of Rs.69,500/- & not Rs.73,700/- and Rs.83,900/- & not Rs.89,000/- respectively, and the pension was rightly fixed at Rs.34,750/- and Rs.41,950/- respectively.

10.The learned Government Advocate would therefore contend that the impugned proceedings dated 31.05.2019 & 25.09.2019 and 27.06.2024 & 04.11.2024 respectively, were issued strictly in accordance with the applicable Government Orders and Pension Rules, and the recovery ordered was only towards excess payment made due to erroneous fixation, and hence, the writ petitions are liable to be dismissed.

11.Heard the learned counsel on either side and perused the materials available on record.

12.It is not in dispute that the petitioners were granted 5% Personal Pay and the same was merged with the revised scale of pay pursuant to the proceedings of the competent authority. The impugned proceedings seek to refix the pay by merging the 5% Personal Pay with the pre-revised scale and consequently reduce the pension and recovery of a sum of Rs.3,18,610/- and Rs.6,60,552/- respectively, after the petitioners retirement. Admittedly, the alleged excess payment was not on account of any misrepresentation or fraud on the part of the petitioners.

13.The Hon'ble Supreme Court in ***White Washer's case*** *(supra)* has categorically held that recovery from retired employees is impermissible in law, particularly when the excess payment was not attributable to any misrepresentation or fraud on the part of the employee. The said principle has been followed by the Government in G.O.Ms.No.286, dated 28.08.2018, wherein it has been clarified that no recovery shall be made from retired employees or in cases where the excess payment had been made for a period exceeding five years prior to the order of recovery.

14.In the present case, the petitioners retired from the service on 30.06.2019 and 30.06.2024 respectively. Thereafter, the fourth respondent refixed the pay and held that excess pay and allowances had been drawn by the petitioners and proceeded to effect recovery. Admittedly, the alleged excess payment was not on account of any fault on the part of the petitioners. In such circumstances, the action of the fourth respondent in refixing the pay and ordering recovery is unsustainable in law. Therefore, the impugned proceedings cannot be sustained.

15.In view of the above, the impugned proceedings of the fourth respondent dated 31.05.2019 & 25.09.2019 and 27.06.2024 & 04.11.2024 respectively are hereby quashed. Accordingly, W.P.Nos.47697 and 26183 of 2025 stands allowed. The respondents are directed to refund the sum of Rs.3,18,610/- and Rs.6,60,552/- respectively, recovered from the petitioners, within a period of two weeks from the date of receipt of a copy of this order.

16.In view of the order passed in W.P.Nos.47697 and 26183 of 2025, W.P.Nos.47695 and 26188 of 2025 stands disposed of with a direction to the respondents to refix the pension at Rs.36,850/- and Rs.44,500/- respectively.

17.W.P.Nos.47697 and 26183 of 2025 stands allowed. W.P.Nos.47695 and 26188 of 2025 stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

27.01.2026

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

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Public Health and Preventive Medicine Department,
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M.DHANDAPANI,J.
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And
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