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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-06-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WA No. 922 of 2026

1. The Principal Secretary to Government
Health and Family Welfare Department,
Fort St. George,
Chennai – 009.
2. The Director of Public Health and Preventive
Medicine
DMS Campus,
Teynampet,
Chennai 6.
3. The Block Medical Officer
Government Primary Health Centre,
Ernapuram,
Namakkal Dt.

..Appellant(s)

Vs

T. Mohammed Rafi
Multipurpose Health Supervisor,
Health Inspector Grade-1,
Government Primary Health Centre,
Konur, Namakkal District.

..Respondent(s)

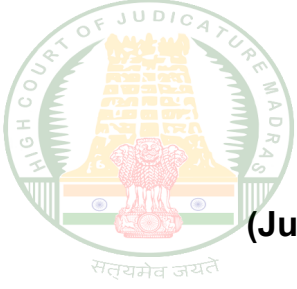
Writ Appeal filed under Clause 15 of the Letters Patent issuing writ of certiorari mandamus to set aside the order dated 09.09.2024 passed in W.P.No.9778 of 2019.

For Appellant(s):

Dr.R.Gouri, Government Counsel

For Respondent(s):

Mr.S.N.Ravichandran



JUDGMENT

(Judgment of the Court was delivered by S.M.Subramaniam J.)

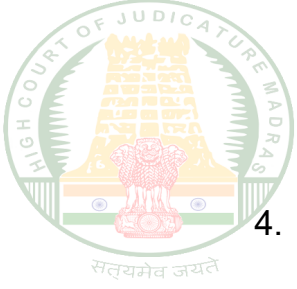
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Under assail is the writ order dated 09.09.2024 in W.P. No. 9778 of 2019.

2. Writ Petitioner retired as Health Inspector Grade – 1. Based on the Government clarification issued in Letter No. 14094/L1/2018-3, Health and Family Welfare (L1) Department, dated 25.10.2018, the Writ petitioner's pay was refixed through proceedings issued in R.No.91/A1/2019 dated 13.03.2019, resulting in the recovery of excess pay and allowances. Challenging the refixation and recovery, writ petitioner preferred the writ proceedings.

3. Writ Court allowed the writ petition by setting aside the impugned proceedings and also directed to refund the amount, if any recovered from the petitioner. Thus, State preferred the present writ appeal.

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 therein in accordance with the Pay Rules and Government Orders shall continue.



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4. However, the respondents therein 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 Department 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

¹2015 4 SCC 334



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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.

(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 proceedings dated 13.03.2019 alone is confirmed. 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.



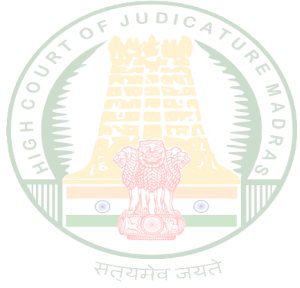
7. Accordingly, the Writ Petition stands disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

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(S.M.S.,J.) (N.S.,J.)
10-06-2026

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

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

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