



WP(MD)No.2078 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.02.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.2078 of 2026
and
WMP(MD)Nos.164 5 and 1648 of 2026**

P.Muthu

...Petitioner

Vs

- 1.The Principal Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat, St.George Fort,
Chennai – 600 009.
- 2.The Director of Municipal Administration,
Ezhilagam, Chepauk,
Chennai – 600 005.
- 3.The Municipal Commissioner,
Madurai Corporation,
Madurai.
- 4.The Deputy Director,
Local Fund Audit,
Madurai Corporation,
Madurai.
- 5.The Assistant Commissioner (Audit),
Madurai Corporation, Madurai.

...Respondents



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PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of certiorarified mandamus to call for the records of the impugned order passed by the 5th Respondent in Na.Ka.No.F7/Z4A1/003267/2025 dated 29.10.2025 in so far as effecting recovery of Rs.1,12,645/- from the Gratuity amount alone is concerned and quash the same and consequently, directing the respondents to disburse the recovered Gratuity amount of Rs. 1,12,645/-

For Petitioner : Mr.B.Vinoth Kumar
For Respondent : Mr.G.Vairam Santhosh
Nos.1 & 2 Additional Government Pleader
For Respondent : Mr.K.Vinayak,
Nos.3 to 5

ORDER

The petitioner / an unskilled employee, who served as a motor attender in the 3rd respondent corporation has retired from service on attaining the age of superannuation on 28.05.2025. After his retirement the respondents by the order impugned in this writ petition has withheld a sum of Rs.1,12,645/- from the petitioner's retirement benefits. Aggrieved over that the petitioner has filed this writ petition.



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2.The learned counsel for the petitioner by referring the orders passed by the Hon'ble Supreme Court in State of Punjab and Others Vs Rafiq Masih (White Washer) [2015] 4 SCC 334 and the government order in GO.Ms.No.286, Finance (Pension) Department, dated 28.08.2018 submits that the recovery cannot be made from the employees belonging to group C and D service.

3.The learned Standing Counsel appearing for the respondent Corporation submits that the petitioner has been permitted to retire on condition that if any amount has been paid in excess it would be recovered. It is tax payers money and the respondent found that excess amount has been paid and therefore, it has to be recovered.

4.This court considered the rival submissions made.

5.In *State Of Punjab & others vs. Rafiq Masih (White Washer) [AIR 2015 SC 696]*, the Hon'ble Supreme Court has laid down the circumstances wherein recovery from the employees would not be permissible and the same is extracted as under:



“12. 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 herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, 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



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extent, as would far outweigh the equitable balance of the employer's right to recover.”

6.In view of the orders of the Hon'ble Supreme Court that recovery is impermissible from the employees belonging to Groups “C and D” service and since this petitioner also falls under this category, this writ petition is allowed and the impugned order is set aside. No costs. Consequently connected miscellaneous petitions are closed.

11.02.2026

DSK

To

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- 2.The Director of Municipal Administration,
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- 3.The Municipal Commissioner,
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4.The Deputy Director,
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5.The Assistant Commissioner (Audit),
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B.PUGALENDHI.J.,

DSK

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