



WP(MD). No.5972 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04/06/2026

CORAM

THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

WP(MD). No.5972 of 2026

J. Beula Thangam

... Petitioner

Vs

1. The Secretary to Government,
Rural Development and Panchayat Raj Department,
Fort St.George, Chennai - 9..

2. The Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai - 9..

3. The Director of Rural Development,
Panagal Building,
Saidapet, Chennai - 600015..

4. The Assistant Director,
Local Fund Audit Department,
4th Floor, Nandanam,
Chennai - 600 035..

5. The Commissioner,
Panchayat Union Office
Kalakkad,
Tirunelveli District - 627 501..

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus,



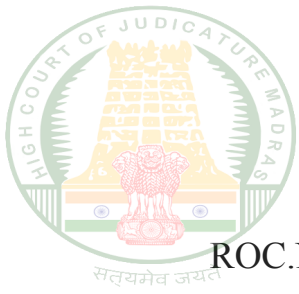
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calling for the records of the 4th respondent in connection with impugned order passed by him in Letter No MM.No. 8193/U.O.O.S. (2)/2023 dated 10.05.2023 and also the order of recovery issued by the 5th respondent in ROC NO. A1/820/2023 dated 12.06.2024 and direct the respondents to reimburse the recovered amount of Rs. 6,56,078/- to the petitioner along with interest at 12 percentage per annum within a reasonable time.

For Petitioner : Mr.A.Sivasubramanian
For R1 to R5 : Mrs.K.Porkodi
Government Pleader

ORDER

The petitioner herein, who worked as Maternity Assistant in the fifth respondent office, retired from service on attaining the age of superannuation on 30.03.2023. It was thereafter when her pension proposals were submitted to the Local Fund Audit Department, it was noticed that her pay was erroneously fixed at a higher level than the pay scale, for which the petitioner is entitled to. Hence, the fourth respondent through the impugned proceedings bearing No. MM.No. 8193/U.O.O.S. (2)/2023 dated 10.05.2023 directed for re-fixation of pay of the petitioner and also to recover the excess payments made to the petitioner. Consequent upon the same, the fifth respondent through proceeding in



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ROC.No.A1/820/2023 dated 12.06.2024 re-fixed the pay of the petitioner and ordered for recovery of an amount of Rs.6,56,078/- from the DCRG amount payable to the petitioner. Accordingly, the said amount was recovered from the petitioner. Before recovering the said amount, the fifth respondent required the petitioner to issue a consent letter and accordingly, the petitioner also issued a consent letter for recovering the said amount. It was thereafter the petitioner has approached this Court by filing the present writ petition challenging the proceedings dated 10.05.2023 and the consequential proceedings dated 12.06.2024 and seeking for refund of amount of Rs.6,56,078/- together with interest.

2. The fifth respondent filed a counter affidavit contending that the petitioner has consented for recovery of the excess amount paid to the petitioner and therefore, the petitioner is not entitled to question the impugned recovery and further contended that the petitioner has suppressed the fact of giving consent for recovery of the said amount.

3. Heard the learned counsel for the petitioner and Mrs.K.Porkodi, learned Government Pleader appearing for the respondents.



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4. The learned counsel for the petitioner placed reliance on a decision of the Hon'ble Apex Court in the case of **Rafiq Masih vs. State of Punjab** reported in (2015) 4 SCC 334 and contended that the recovery of the excess amount, if any, paid due to wrong fixation of pay, cannot be recovered from the employee, who has already retired and belonging to Category 'C' & 'D' employees and hence the impugned recovery is totally unsustainable. He further contended that the consent letter that was alleged to have been obtained from the petitioner is under coercion and under pressure as the terminal benefits of the petitioner were not released by them. The petitioner was left with no other option except to accede to the demand made by the respondents. He also placed reliance on a decision of the Hon'ble Division Bench of this Court in WA(MD)No. 1740 of 2025 dated 17.06.2025, wherein the Hon'ble Division Bench considered the effect of Rafiq Masih's case and held that the bargaining power of a employee compared to the power of the employer is trivial and therefore, any consent issued cannot be come in the way of granting relief in favour of the employee.

5. Mrs.K.Porkodi, learned Government Pleader appearing for the



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respondents, while reiterating the contentions raised in the counter affidavit, submitted that the case of Rafiq Masih's has no application to the case on hand as there is an express consent issued by the petitioner for recovery of the amounts.

6. This Court considered the submissions made on either side and also perused the entire materials on record.

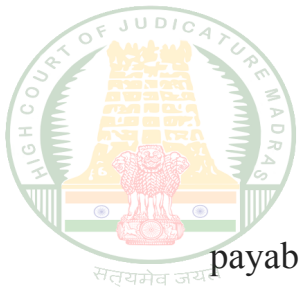
7. The proceedings dated 12.06.2024 is only a consequential proceeding pursuant to the proceedings dated 10.05.2023 issued by the fourth respondent. As on the date of issuance of proceedings dated 10.05.2023, there was no consent issued by the petitioner. A decision was already taken to re-fix and recover the amount from the petitioner. The fifth respondent has only implemented the order dated 10.05.2023 issued by the fourth respondent. No doubt, the petitioner has issued a consent letter for recovery of the excess amount from the DCRG amount payable to the petitioner. But, when the law of the land mandates that no recovery should be made from a retired employee belonging to Group 'C' & 'D' categories, no authority under the State or its instrumentalities



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have got any authority to act contrary to the law laid down by the Hon'ble Apex Court. The law laid down by the Hon'ble Apex Court in the case of Rafiq Masih is in the nature of binding precedent. It binds every authority in the States throughout the Country. Therefore, when the initial order dated 10.05.2023, whereby recovery was proposed, itself is bad, having been contrary to the law laid down by the Hon'ble Apex Court, the same cannot be validated by obtaining a consent letter from the petitioner. Hence, the consent letter alleged to have been issued by the petitioner is of no consequence nor empower the respondents to recover the said excess amount paid to the petitioner. Further, the Hon'ble Division Bench in WA(MD)No.1740 of 2025 also considered the very same aspect and came to the conclusion that the power of the mighty employer makes the bargaining power of the employee to yield to its pressure and held that if there is any recovery, Rafiq Masih's case would apply to such recovery.

8. In the instant case, admittedly, the amounts were proposed to be recovered only after the petitioner has retired from service on 30.03.2023 and in fact, the amounts were recovered from the terminal benefits



payable to the petitioner. Therefore, in the considered view of this Court,

Rafiq Masih's case is straightway applicable to the facts of the case on hand. It is useful to extract paragraph 18 of the said judgment, which reads as follows:

“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 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



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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 employers right to recover.”

9. In the light of the judgment cited supra, the impugned recovery through the impugned proceedings to the tune of Rs.6,56,078/- is bound to be declared as illegal and contrary to law. Insofar as re-fixation of pay is concerned, the learned counsel for the petitioner fairly submitted that the petitioner is not contesting the same and the petitioner is only aggrieved by the recovery.

10. In the light of the above, the recovery of an amount of Rs.6,56,078/- ordered and recovered through the impugned proceeding is bound to be declared as illegal and arbitrary. Accordingly, the same is hereby quashed to the extent of ordering recovery and the consequential recovery of the said amount from the DCRG amount payable to the petitioner.



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11. In the result, this writ petition is allowed to the extent indicated above and the fifth respondent is directed to refund the amount of Rs.6,56,078/- together with interest at the rate of 6% to the petitioner as expeditiously as possible, at any rate, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

04.06.2026

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
CM



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MUMMINENI SUDHEER KUMAR,J

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