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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.03.2026**

CORAM:

THE HONOURABLE **MR.JUSTICE N.SATHISH KUMAR**
AND
THE HONOURABLE **MR.JUSTICE M.JOTHIRAMAN**

W.P.(MD)No.15698 of 2025

M.Balu

... Petitioner

Vs.

1.The District Judge,
Sivagangai District,
Sivagangai.

2.The District Munsif,
District Munsif Court,
Sivagangai District,
Sivagangai

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to repay the recovered amount of 5% personal pay of Rs.116119/- from the petitioner retirement benefits amount with 6% interest.

For Petitioner : Mrs.J.Balameenakshi

For Respondents : Mr.M.Mahaboob Athiff,
Standing Counsel.



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ORDER

(Order of the Court was made by **M.JOTHIRAMAN, J.**)

This writ petition has been filed seeking a direction to the respondents to repay the recovered amount of 5% personal pay of Rs.1,16,119/- from the petitioner retirement benefits amount with 6% interest.

2.It is the case of the petitioner that he was appointed as Senior Bailiff in the District Munsif Court, Ilayangudi, Sivagangai District on 20.10.2000. He was promoted as Junior Assistant on 28.08.2014 and he was retired from service on 30.04.2015. On 22.06.2015, the first respondent issued a memo stating that the petitioner was received excess salary and directed him to repay the amount as per in G.O.Ms.No.664, Finance (P.C) Department dated 24.08.1992 with effect from 01.08.1992. The petitioner was paid with 5% personal pay as Senior Bailiff from the date of appointment for a sum of Rs.160/-. He submitted a representation to the respondent not to recover the amount on 10.06.2015 but, the first respondent did not consider his representation. On 19.05.2015, the first respondent has paid retirement benefits and 5% personal pay has been



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recovered by the first respondent. After payment of excess salary of by 5% from the date of appointment, the respondent recovered the same from the retirement benefits is clear violation of principles of natural justice. The petitioner has not committed any mistake. Hence, he seeks a direction to the respondent to repay the recovered amount of 5% of personal pay of Rs.1,16,119/- from his retirement benefits.

3.The learned counsel appearing for the petitioner would submit that on 19.05.2015, the respondent has paid the entire retirement benefits and 5% personal pay has been recovered by the first respondent, after payment of excess salary of by 5% from the date of appointment, after retirement, which is clear violation of principles of natural justice. The petitioner has not committed any mistake. On 17.10.2024, this Court issued a circular on the basis of the order passed by this Court in WP.Nos.19224, 19225, 19227 of 2022 wherein it has been held that the employees appointed after 5th pay commission are not entitled to claim 5% personal pay. If at all 5% personal pay has been extended erroneously, the amount already granted need not be recovered, but the re-fixation is to be corrected in accordance with Pay Rules and Government Orders in force.



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4.Per contra, the learned Standing Counsel appearing for the respondents would submit that the petitioner submitted a representation dated 20.01.2016 and subsequently, on 11.02.2016, the petitioner himself voluntarily submitted a written undertaking stating that any excess amount received by him may be recovered from his terminal benefits. The circular issued by this Court dated 14.10.2024 is prospective in nature and came into force only from 14.10.2024 onwards. After lapse of several years, the petitioner submitted a representation by enclosing the Government Order in G.O.(Ms)No.664 dated 24.08.1992 and circular issued by this Court on dated 14.10.2024 is un-sustainable in law and there is no merits in this writ petition.

5.We have considered the submissions made on either side and perused the records carefully.

6.It is seen from the records that the petitioner was appointed as Senior Bailiff on 20.10.2000 and was subsequently, promoted as Junior Assistant on 28.08.2014 and he was retired from service on 30.04.2015. From the date of his initial appointment, he was received



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5% personal pay, which was granted based on the G.O.(Ms).No.664, Finance (P.C) Department, dated 24.08.1992 and the same continued till date of his retirement. The second respondent has submitted a pension proposal to the Accountant General, Chennai, based on the said fixation. Upon scrutiny, the Accountant General's Office issued an admissibility report, on 19.05.2015 containing specific remarks regarding 5% personal pay. In pursuance to the admissibility report, the second respondent issued, a memorandum dated 22.06.2015 along with a calculation sheet indicating the excess payment. The petitioner submitted a representation dated 20.01.2016 along with a citation of Hon'ble Supreme Court and subsequently, on 11.02.2016, submitted a written undertaking mentioning that any excess amount received by him may be recovered from his terminal benefits. In this regard, counter affidavit has been filed by the respondents, which reads as under:-

7.I further submit that the petitioner submitted a representation dated 20.01.2016 along with a citation of the Hon'ble Supreme Court. Subsequently, on 11.02.2016 the Petitioner voluntarily submitted a written undertaking, clearly stating that, any excess amount received may be recovered from his terminal benefits. On the basis of the above said undertaking, the second respondent/District Munsif prepared the D.C.R.G. Bill



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after making necessary deductions of the excess amount of Rs.1,16,119/- in accordance with the Admissibility Report.

7.It is to be noted that after lapse of several years, the petitioner has submitted a representation dated 15.04.2025 by enclosing G.O. (Ms).No.664, Finance (P.C) Department, dated 24.08.1992 and circular issued by this Court dated 14.10.2024. In the circular issued by the Registry of this Court, it is stated that recovery need not to be effected with respect to 5% personal pay granted under G.O.(Ms)No.664, dated 24.08.1992 especially in the case of Group C and D employees, although, the corrections may be made in future pay fixation as per rules.

8.When the petitioner himself voluntarily submitted a written undertaking dated 11.02.2016, stating any excess amount received can be recovered from his terminal benefits, based on which, the second respondent has prepared bills, after making necessary deductions in accordance with the admissibility report issued by the Accountant General, Chennai, we are of the view that he cannot go back on his undertaking. There is no merits in this writ petition and the same deserves to be dismissed.



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9. In the result, this writ petition is dismissed. There shall be no order as to costs.

[N.S.K., J.] & [M.J.R., J.]
18.03.2026

Index : Yes/No
Internet : Yes
GNS

To

1. The District Judge,
Sivagangai District,
Sivagangai.

2. The District Munsif,
District Munsif Court,
Sivagangai District,
Sivagangai.



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**N.SATHISH KUMAR, J.
AND
M.JOTHIRAMAN, J.**

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