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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.06.2026**

CORAM:

THE HONOURABLE **MR.JUSTICE N.SATHISH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE M.JOTHIRAMAN**

W.P.(MD)No.15098 of 2026

and

W.M.P.(MD)No.11310 of 2026

Ganesan

... Petitioner

Vs.

1.The Additional Registrar General,
Madras High Court, Madurai Bench,
Madurai.

2.The Principal District Judge,
Ramanathapuram District.

3.The State of Tamil Nadu,
represented by the Secretary,
Account General, Chennai.

4.The Internal Audit Wing,
Madras High Court,
Madurai Bench,
Madurai.

5.The Treasury Officer,
Ramanathapuram District.

...Respondents



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PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings by the second respondent vide order No.A1/14/2025 dated 31.01.2025, insofar as it orders the recovery of Rs.1,26,954/- from his pensionary benefits and to quash the same as illegal and consequently direct the respondents to release his full death-cum-retirement gratuity (DCRG) amount without any deductions and refund his payment sum of Rs.1,26,954/- which is recovered from the petitioner.

For Petitioner : Mr.SMA.Jinnah
For Respondents : Mr.N.GA.Natraj (R1 & R2)
Mr.C.Jeganathan
Counsel for the State (R3 & R5)

ORDER

(Order of the Court was made by **N.SATHISH KUMAR, J.**)

The order of recovery issued against the writ petitioner vide proceedings dated 31.01.2025 is under challenge in this writ petition.

2.Mr.N.GA.Natarj, learned Counsel, accepts notice for the first and second respondents and Mr.C.Jeganathan, learned Counsel for the State, accepts notice for the respondents 3 and 5. Considering the nature of the order proposed to be passed in this writ petition notice to the fourth respondent is dispensed with.



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3.By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

4.The writ petitioner was working as Central Nazir and retired from service on attaining the age of superannuation on 31.01.2025. On the date of retirement, impugned recovery proceedings were issued by the competent authority based on an audit objection stating that an excess amount of Rs.1,26,954/- had been paid to the petitioner during service and directing recovery of the said amount.

5.This being the factual position, this Court is of an opinion that absolutely there is no issue in respect of correcting the errors took place. In other words, the correction of errors are certainly permissible. However, in respect of recovery, the same cannot be imposed when it was paid to the employee at the instance of the employer. If any error took place regarding the fixation of pay, the same can be corrected and the revised pay shall be paid. However, the amount already paid shall not be recovered in view of the fact that there was no misrepresentation on the part of the employee nor it was granted at the instance of the employee.



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6. 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 reported in (2015) 4 Supreme Court Cases 334*** in paragraph No. 18 of the judgment is relevant and the same is extracted 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, summarise 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 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.



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(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.”

7. In view of the guidelines issued by the Hon'ble Supreme Court, the recovery imposed on the writ petitioner is untenable.

8. In view of the above, the order impugned in this writ petition passed by the second respondent dated 31.01.2025 is quashed in respect of the recovery alone. Fixation of pay can be corrected in accordance with the Government Orders and the Pay Rules in force. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[N.S.K., J.] & [M.J.R., J.]
09.06.2026

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Internet : Yes
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**N.SATHISH KUMAR, J.
AND
M.JOTHIRAMAN, J.**

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