



W.P.(MD) No.3346 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.3346 of 2023

and

W.M.P.(MD) Nos.3084 of 2023 & 2342 of 2026

S.Paramasivam

... Petitioner

-vs-

- 1.The Principal Accountant General (A&E)
Tamil Nadu, 361, Anna Salai
Teynampet, Chennai-600 018
- 2.The Director of Technical Education
Directorate of Technical Education
Guindy, Chennai-600 025
- 3.The Financial Advisor and
Chief Accounts Officer
Directorate of Technical Education
Guindy, Chennai-600 025
- 4.Sankar Institute of Polytechnic
rep.by its President
Sankar Nagar & Post
Tirunelveli District



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5.The Assistant Treasury Officer
Sub Treasury Office
Palayamkottai
Tirunelveli Collector Office Building
Tirunelveli
Tirunelveli District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to impugned proceeding issued by the fifth respondent herein in proceedings No. 593/A2/2023, dated 23.01.2023, quash the same further direct the respondents herein to restore the original pension payable to the petitioner from December 2022 onwards and also refund the recovered pension amount from January 2023 onwards within a reasonable time as may be specified by this Court.

For Petitioner : Mr.E.V.N.Siva

For Respondents : Mr.P.Gunasekaran for R1
Mr.C.Jeganathan
Counsel for Govt. of Tamil Nadu for R2, R3 & R5
Mr.S.Raguvaran Gopalan for R4



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ORDER

This writ petition has been filed challenging the proceedings dated 23.01.2023, issued by the fifth respondent, re-fixing the petitioner's pension and ordering recovery of an amount of Rs.25,45,521/- from the pension that is payable to the petitioner, in 102 monthly installments.

2. The facts of the case are that the petitioner, having worked as Senior Lecturer in the fourth respondent – College, retired from service on attaining the age of superannuation on 30.09.2000 and he has been drawing pension for all these years. While so, the fifth respondent finding that the pay of the petitioner in the post of Senior Lecturer (Selection Grade), who was holding the post of Head of the Department, excess by virtue of the orders issued in G.O.(Ms) No.111, Higher Education (C2) Department, dated 25.05.2010, in the year 2013, issued the impugned proceedings. These facts are not in dispute. The petitioner, admittedly, retired from service as early as on 30.09.2000. There is nothing on record to show that there was any misrepresentation or fraud committed by the petitioner in drawing the higher pay than the pay to which he is otherwise entitled to.



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3. Learned counsel for the petitioner concedes that the petitioner is restricting the relief in the present writ petition against the impugned proceedings only to the extent of ordering recovery of excess payment and he is not contesting re-fixation of pay through the impugned proceedings.

4. In the light of the above, the only issue that needs to be considered is whether the respondents are entitled to recover the alleged excess sum of Rs.25,45,521/- by virtue of the impugned proceedings or not.

5. Admittedly, the petitioner retired from service on 30.09.2000. Taking the same into consideration, if the law laid down by the Apex Court in the case of ***State of Punjab and others vs. Rafiq Masih (White Washer) and others***, reported in ***(2015) 4 SCC 334***, is applied to the case on hand, the answer would be in negative. Paragraph No.18 of the said decision reads as under:

“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



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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.

(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. From the above Paragraph, it is evident that no amount can be recovered from the person, who have already retired from service or who is at the verge of retirement.



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7. In the instant case, the petitioner has already retired from service as early as on 30.09.2000, and the amounts that are paid to the petitioner up to the year 2023 are now sought to be recovered through the impugned proceedings after a lapse of 23 years from the date of his retirement. No doubt, fixation of pay was done only in the year 2013 and the so-called excess payments were paid from the year 2013 to 2023. As the petitioner having retired from service as on 30.09.2000, he is straightaway entitled for the benefits of Clause (ii) of Paragraph No.18 of the decision of the Honourable Apex Court in **White Washer's** case.

8. Mr.C.Jeganathan, learned counsel for the Government of Tamil Nadu appearing for the respondents 2, 3 & 5 placed reliance on a decision of the Coordinate Bench of this Court in W.P.(MD) Nos.9851 & 9852 of 2023, dated 17.03.2025, contending that the petitioner being a Group-A Officer is not entitled to the benefits of the above decision of the Honourable Apex Court.

9. This Court is not convinced with the said submission of the learned counsel for the Government of Tamil Nadu, as Clause (ii) of Paragraph



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No.18 of the decision in **White Washer's** case does not make any difference between the category of Group-A, B, C or D employees and the category of Group-C & D employees are exempted from recovering any amount under Clause (i) of Paragraph No.18 of the said decision. As the petitioner is straightaway falling under Clause (ii) of Paragraph No.18 of the decision in **White Washer's** case, the decision of the Coordinate Bench of this Court relied upon by the learned counsel for the Government of Tamil Nadu has no application to the facts of the present case.

10. As the impugned recovery is found to be directly in contravention of the decision of the Honourable Apex Court in **White Washer's** case, this Court has no other option except to declare the impugned proceedings to the extent of ordering recovery alone as illegal and arbitrary and violative of Articles 14 and 21 of the Constitution of India.

11. Accordingly, the impugned proceedings dated 23.01.2023, issued by the fifth respondent, is hereby quashed only to the extent of ordering recovery of a sum of Rs.25,45,521/- in 102 monthly installments alone. The amounts, if any recovered from the petitioner pursuant to the impugned proceedings, shall be refunded to him, as expeditiously as possible,



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at any rate, within a period of three months from the date of receipt of a copy of this order.

12. Accordingly, this writ petition is partly allowed. No costs.

Consequently, connected miscellaneous petitions are closed.

03.07.2026

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

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To:

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Guindy, Chennai-600 025.
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Chief Accounts Officer,
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