



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2017

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. (MD) No.1400 of 2014 against W.A(MD)No.7823/2009

and

M.P. (MD)No.1 of 2014

- 1.The Director of School Education,  
Chennai-6.
- 2.The Chief Educational Officer,  
Krishnagiri,  
Krishnagiri District.
- 3.The District Educational Officer,  
Hosur, Krishnagiri District. .. Appellants/Respondents 2 to 4

-vs-

- 1.M.Thassaian .. Respondent/Petitioner
- 2.The Principal Accountant General,  
(Accounts & Entitlements),  
Tamil Nadu, Chennai-18 . .. Respondent/Respondent No.1

**PRAYER :** Writ Appeal filed under Clause 15 of Letters Patent against the order passed by this Court dated 23.11.2010 in W.P. (MD)No.7823 of 2009.

Prayer in WP(MD). 7823/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling forthe records pertaining to the order passed by the fourth respondent in his proceedings Na.Ka.1414/A3/07 dated 20/10/2007 and the order passed by the second respondnet in his proceedings Na.Ka. 101206/C1/E1/08 dated 16/12/2008 and the consequential order passed by the third respondent in his proceedings Mu. Mu. no. 458/2008 /a2 dated 29/01/2009 and quash the same and direct the respondents to fix the scale of pay of the petitioner in the cadre of headmaster of



High School on promotion with effect from the date of promotion and confer all consequential benefits.

For Appellants : Mr.V.Muruganantham  
Additional Government Pleader  
For Respondents : Mr.V.Paneer Selvam  
for R.1  
:Mr.P.Gunasekaran  
for R.2

### J U D G M E N T

**[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]**

Heard the learned Additional Government Pleader appearing for the appellants and the learned Counsel appearing for the respondents.

2. The Education Department has preferred this Writ Appeal against the order passed in W.P.(MD)No.7823 of 2009 dated 23.11.2010, filed by the first respondent herein. The writ petitioner challenged the order of recovery dated 16.12.2008 passed after the writ petitioner retired from service.

3. The learned Single Judge, after taking into consideration the decision of the Honourable Supreme Court in **Syed Abdul Qadir Vs. State of Bihar** reported in **(2009)3 SCC 475**, allowed the Writ Petition and held that the writ petitioner is entitled for refund of the recovery amount. There is no error in the order passed by the learned Single Judge and the order of recovery is unsustainable in the eye of law, as the writ petitioner was out of service and he was not responsible for wrong fixation. Hence, there is no ground made out in this Writ Appeal. Accordingly, the same is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-  
Assistant Registrar(A.S)

/True Copy/

Sub Assistant Registrar

To

1.The Principal Accountant General,  
(Accounts & Entitlements),  
Tamil Nadu, Chennai-18.

2.The Director of School Education,  
Chennai-6.



3.The Chief Educational Officer,  
Krishnagiri,  
Krishnagiri District.

4.The District Educational Officer,  
Hosur, Krishnagiri District.

+1cc to SPECIAL GOVERNMENT PLEADER in SR. No.53091  
+1cc to Mr.V.PANNEER SELVAM Advocate in SR. No.53080  
+1cc to Mr.P.GUNASEKARAN Advocate in SR. No.53033

SSL

JS.JC.2.05.2017/3P-8C

W.A. (MD) No.1400 of 2014  
19.04.2017