

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 15.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

WP.No.30364 of 2004
and
WP.MP.No.36821 of 2004

T.G.Ramanlingam

...Petitioner

Vs

1. The Principal Accountant General
(Accounts and Entitlements)
Tamil Nadu, 361, Anna Salai,
Chennai 600 018.
2. The District Elementary Educational Officer,
Thiruvannamalai,
Thiruvannamalai District,
Kancheepuram,
Kancheepuram District.
3. The Assistant Elementary Educational Officer,
Thellar,
Thiruvannamalai District. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the impugned order of the first respondent in No.AG (A&E)/Pension/16/IV/R30-307/Rte/ 104-05/102 dated 23.06.2004 and quash the same in so far as the recovery of the incentive increments is concerned.

For Petitioner : Mr.P.Rajendran

For Respondents: Mr.K.Rajendra Prasad, AGP
for R2 & R3

Mr.T.Ravikumar
for R1

O R D E R

The Hon'ble Apex Court in its decision reported in 2015 (4) SCC 334 in the case of State of Punjab and others vs Rafiq Masih (White Washter) and others, had held that recovery from the employees when there is excess demand for a period in excess of 5 years before the order of recovery is issued is impermissible in law. In the instant case, the impugned recovery order has been passed on 23.06.2004 seeking to recover the incentives that was paid on 01.08.1996, which apparently is beyond the period of 5 years. By laying down the ratio of the Hon'ble Apex Court in the aforesaid Judgement, the impugned order cannot be sustained.

2. Accordingly, the order dated 23.06.2004 passed by the first respondent herein in AG (A&E)/Pension/16/IV/R30-307/Rte/104-05/102, is quashed and the present Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

3. In case the amount has already been recovered in view of the impugned order, the respondents shall forthwith refund the amount to the petitioner.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ebsi/hvk

To

1. The Principal Accountant General
(Accounts and Entitlements)
Tamil Nadu, 361, Anna Salai,
Chennai 600 018.

2. The District Elementary Educational Officer,
Thiruvannamalai,
Thiruvannamalai District,
Kancheepuram, Kancheepuram District.

3. The Assistant Elementary Educational Officer,
Thellar,
Thiruvannamalai District.

+1cc to M/S.T.Ravikumar, Advocate Sr.14551

+1cc to M/S.P.Rajendran, Advocate Sr.13940

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srg 20/03/2019



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