



WEB COPY



W.P.No.30026 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.30026 of 2018
and W.M.P.No.35040 of 2018

S. Manikandan

... Petitioner

Vs.

1.The Principal Secretary to
Government of Tamil Nadu,
Finance (Pay Cell – II) Department,
Fort St. George,
Chennai – 600 009.

2.Regional Joint Director of
Treasuries and Accounts,
Madurai – 20.

3.The Additional Director (Admin),
Department of Treasuries and Accounts,
Chennai – 600 035.

4.The Commissioner of Social Welfare,
Saidapet,
Chennai – 600 015.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the (1) Regional Joint Director of Treasury and Accounts, Madurai dated



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06.03.2017 passed in this proceedings Proc.R.C.No.2779/2014/A (2) the consequential order dated 18.07.2017 passed by the Additional Director (Admn) of Treasuries and Accounts, Chennai – 35 in his proceedings R.C.No.32422/F2/2016 and (3) Letter dated 20.08.2018 issued by the Additional Director, Treasuries and Accounts, Chennai – 600 035 calling upon the petitioner to remit the undue excess payment of Rs.1,25,047/- upto the year 2014 and quash the same.

For Petitioner : Mr.P.M. Gopalakrishnan

For Respondents : Mr.K.H. Ravi Kumar,
Government Advocate

ORDER

The Hon'ble Supreme Court in the case '*State of Punjab Vs. Rafiq Masih (White Washer)*' reported in '*(2015) 4 SCC 334*', had held that the excess payment wrongly made by the Department for the period exceeding five years and which payment is not because of the mistake of the Government employee, is impermissible in law.

2. In the instant case, the second and third respondents have passed the impugned order of recovery for alleging that 5% of the personal pay



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has been paid excessively to the petitioner for the period commencing from 01.09.1998 to 13.08.2014 and thereby, sought to recover the amount.

3. By applying the issue laid down in ***Rafiq Masih (White Washer)***'s case, such an action of recovery is impermissible. Accordingly, the impugned order dated 18.07.2017 passed by the third respondent, is hereby quashed and the Writ Petition stands allowed. No costs. Connected miscellaneous petition is closed.

08.12.2022

Speaking/Non-speaking order

Index : Yes/No

Internet: Yes/No

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M.S.RAMESH,J.

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To

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Chennai – 600 009.
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