



W.P.(MD) No.19163 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.19163 of 2020
and W.M.P.(MD).Nos.16026 of 2020 and 3195 of 2021

B.Brabakaran

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. By its Secretary,
Department of School Education,
Fort St. George,
Chennai 600 009.
- 2.The Director of School Education,
College Road,
Chennai 600 006.
- 3.The Joint Director(Vocational),
Directorate of School Education,
DPI Compound,
College Road,
Chennai 600 006.
- 4.The Regional Accounts Officer, (Auditor),
School Education Department,
Madurai.



W.P.(MD) No.19163 of 2020

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5.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

6.The District Educational Officer,
Thuckalay, Kanyakumari District.

7.The Headmaster,
Dr.Samuel Higher Secondary School,
Santhapuram,
Kanyakumari District.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned order issued by the 4th respondent in Na.Ka.No.1643 A3/2020, dated 01.09.2020 and the consequential proceedings of the 7th respondent letter, dated 16.11.2020 quash the same.

For Petitioner : Mr.A.Amala

For Respondent : Mr.A.Kannan for R1 to R6
Additional Government Pleader

ORDER

The Honourable in the case of *State of Punjab & others Vs. Rafiq Masih (White Washer) etc.*, reported in (2015) 4 SCC 334, held that recovery, pursuant to the wrong fixation of pay on account of the error committed by the Department, over a period of more than five years, is impermissible in law.



W.P.(MD) No.19163 of 2020

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2. In the instant case, based on certain Audit Objections, the respondents claim that the monetary benefits pursuant to the pay fixation for the period commencing from 01.01.2006, requires to be given with effect from 01.04.2013 onwards only.

3. In view of the law laid down in the *Whiter washer's case (Supra)*, such recovery of payment, which has already been paid owing to the alleged mistake on the part of Department and which is prior to five years, is impermissible in law.

4. Accordingly, the impugned order issued by the 4th respondent in Na.Ka.No.1643 A3/2020, dated 01.09.2020 and the consequential proceedings of the 7th respondent letter, dated 16.11.2020, are hereby quashed.

5. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

27.07.2022

Index : Yes / No
Speaking Order/ Non Speaking Order
TM

3/5



W.P.(MD) No.19163 of 2020

WEB COPY

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W.P.(MD) No.19163 of 2020

M.S.RAMESH,J.

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W.P.(MD) No.19163 of 2020

27.07.2022