



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.02.2022**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P. (MD)No.5323 of 2018

and

W.M.P. (MD)No.5273 of 2018

WEB COPY

S.Vasantha

...Petitioner

/Vs./

1.The Chief Educational Officer,
Tuticorin,
Tuticorin District.

2.The Headmaster,
Arulmigu Aandavar Government Boys Higher Secondary School,
Tiruchendur 628 15,
Tuticorin District.

...Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to impugned proceedings in Na.Ka.No.31 of 2018, dated 05.03.2018 of the second respondent herein and quash the same and consequently direct the respondents herein to repay the excess amount recovered in November, December 2017, January and February 2018 pay bills.

For Petitioner : Mr.T.Pon Ramkumar

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

O R D E R

Heard Mr.T.Pon Ramkumar, learned counsel for the petitioner and Mr.D.Sadiq Raja, learned Additional Government Pleader for the respondents.

2. The issue in this writ petition is directly covered by a judgment of the Hon'ble Supreme Court in the case of *State of Punjab and others vs. Rafiq Masih* (2015 (4) SCC 334) (Whitewasher's case). The impugned order of recovery militates against the directions issued in that judgment on two aspects. Recovery has been initiated in regard to the period prior to five years from when the recovery was effected and the impugned recovery has been initiated proximate to the date of superannuation being 31.03.2018. The impugned order is thus quashed.



3. Learned counsel for the petitioner would submit that on account of the impugned recovery, the retirement benefits of the petitioner have been withheld.

4. With the quashing of impugned order of recovery, retirement benefits shall be computed and paid over to the petitioner within a period of four weeks from today.

5. This Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

akv

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Chief Educational Officer,
Tuticorin,
Tuticorin District.

2.The Headmaster,
Arulmigu Aandavar Government Boys Higher Secondary School,
Tiruchendur 628 15,
Tuticorin District.

+1 CC to M/s.T.PON RAMKUMAR, Advocate (SR-4254[F] dated 04/02/2022)

+1 CC to M/s.SPL.GP (SR-4525[F] dated 07/02/2022)

W.P.(MD)No.5323 of 2018

Dated:

04.02.2022

RD (10/02/2022) 2P/5C