



WP(MD)No.7823 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.07.2022

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.7823 of 2018
and W.M.P.(MD)Nos.7400 & 7401 of 2018

1.G.Premavanthy
2.A.Velmurugan
3.K.Jaya
4.A.Thangavelu
5.K.Ramar

... Petitioners

/vs./

1.The Principal Secretary to Government,
Handloom, handicrafts, Textiles and
Khadi Department,
Fort St. George, Chennai – 600 009.

2.The Secretary to Government,
Labour and Employment Department,
Fort St. George,
Chennai – 600 009.

3.The Commissioner,
Commissionerate of Employment and Training,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned order of the first respondent in கடித எண்.2928/எபி1/2016-8, dated 19.12.2017 and consequential impugned order of the third respondent in ஒவி1/625/2018 dated 15.03.2018 and quash the same as illegal and unlawful.

For Petitioners : Mr.J.Pooventhera Rajan

For Respondents : Mr.R.Ragavendran,
Government Advocate.

ORDER

Alleging that the petitioners' Special Grade pay was wrongly fixed, an order dated 19.12.2017 came to be passed, whereby the Government had directed the third respondent herein to refix the petitioners' scale of pay and recover the excess payment made. A consequential order dated 15.03.2018 was also passed for recovery of the alleged excess payment.

2. The Hon'ble Supreme Court, in the case of *State of Punjab & Others vs. Rafiq Masih (White Washer)* reported in *AIR 2015 SC 696*, had held that excess payment wrongly made by the Department to the employee, who belongs to



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Group-C and Group-D, is impermissible in law. If that be the legal position, the present impugned orders, alleging that the scale of pay of the petitioners were wrongfully fixed and excess payments have been made, cannot be sustained. Furthermore, it is not in dispute that the petitioners herein, who were serving as Office Assistants, belong to Group-D category and therefore, by applying the ratio laid down in the *White Washer's case* (supra), such re-fixation and the consequential recovery under the impugned order, cannot be sustained.

3. Accordingly, the impugned proceedings of the first respondent dated 19.12.2017 and the consequential impugned order of the third respondent dated 15.03.2018 are quashed.

4. This Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

18.07.2022

Index : Yes / No

Internet : Yes / No

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vsm

To

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Order made in
W.P.(MD) No.7823 of 2018

Dated:
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