



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2022

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. (MD)No.25332 of 2018

and

W.M.P. (MD)No.22934 of 2018

WEB COPY

P.Thiyagarajan

...Petitioner

/Vs./

1.The Chief Educational Officer,
Thanjavur District.

2.The Head Master,
Anna Government Higher Secondary School,
Patteeswaram,
Thanjavur District.

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 2nd respondent in his proceedings in Na.Ka.No.219/2018 dated 28.11.2018 and QUASH the same and direct the respondents to allow the petitioner to continue to have the same benefit.

For Petitioner : Mr.V.Panneer Selvam
For Respondents : Mr.A.K.Manikkam
Special Government Pleader

ORDER

When the matter had come up on 23.12.2021, the following order was passed:

"The case of Mr.V.Panneer Selvam, learned counsel appearing for the petitioner is that the incentive increment has been sanctioned as early as in 2007, whereas the impugned order has been passed only on 28.11.2018, beyond a period of eleven years from when it was sanctioned.

2. *Prima facie*, this is contrary to the dictum in the case of the White washer's case, wherein the Hon'ble Supreme Court has stated that recovery, should be made within five years from the offending or erroneous pay-out.

3. Faced with this situation, Mr.A.K.Manikkam, learned Special Government Pleader, whose name shall be printed for the respondents, seeks some time to obtain instructions.

4. List on **05.01.2022.**"



2.Today, learned Special Government Pleader would state that he has no effective defence, acquiescing to the position that the issue is squarely covered by the Judgment of the Supreme Court in the case of *State of Punjab and others vs. Rafiq Masih* (2015 (4) SCC 334).

3.Recording the aforesaid, the impugned order dated 28.11.2018 is quashed and this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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,
Thanjavur District.

2.The Head Master,
Anna Government Higher Secondary School,
Patteeswaram,
Thanjavur District.

+1 CC to M/s.V. PANNEER SELVAM, Advocate (SR-689[F]
dated 06/01/2022)

+1 CC to M/s.SPL.GP (SR-596[F] dated 06/01/2022)

Order made in
W.P. (MD)No.25332 of 2018

Dated:
05.01.2022

NSN (CO)
GC (20.01.2022) 2P 5C