



W.A(MD)No.1404 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2023

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.A(MD)No.1404 of 2023

and

C.M.P(MD)No.10972 of 2023

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Rural Development & Panchayat Raj,
Secretariat,
Chennai.
- 2.The State of Tamil Nadu,
Represented by its Joint Secretary to Government,
Finance (Pay Section) Department,
Secretariat,
Chennai.
- 3.The District Collector,
Theni District,
Theni.
- 4.The Personal Assistant to Collector (Development),
Collectorate,
Theni,
Theni District.

... Appellants/Respondents

Vs.

S.Jeevarathinam

....Respondent/Writ Petitioner



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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order, dated 21.12.2022 made in W.P(MD)No.15647 of 2016.

For Appellant : Mr.D.Sachi Kumar
Additional Government Pleader

For Respondents : Mr.H.Mohamed Imran
for M/s.Ajmal Associates

JUDGMENT

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

This writ appeal is directed against the order of the learned Single Judge passed in the writ petition filed by the respondent in W.P(MD)No.15647 of 2016.

2. The brief facts which are necessary for the disposal of the writ appeal are as follows:-

The respondent was appointed as Junior Assistant on 24.07.1985. After promotion to various posts, he was promoted as Deputy Block Development Officer and posted at Panchayat Union Office on 09.04.2007.



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With reference to the date of appointment and date of promotion, there is no issue. The respondent also retired on 30.06.2015 on attaining superannuation.

The representation of the respondent earlier was to revise the pay scale on par with his junior on the allegation that, another person who was junior to him, is getting higher pay than the respondent. Though the appellants revised the scale of pay by proceedings dated 27.07.2015, it is the grievance of the respondent that subsequently by proceedings dated 19.05.2016 the earlier order was cancelled and the respondent was asking to pay back the excess amount issued pursuant to the earlier order. In such circumstances, the respondent filed the writ petition in W.P(MD)No.15647 of 2016 to quash the order of the second appellant, dated 19.05.2016. The learned Single Judge of this Court, after holding that the respondent was not given an opportunity and the official respondents have not followed the orders of the Government in several proceedings, remitted the matter back for fresh consideration. While remitting the matter, the learned Single Judge also observed that the recovery shall not be made following the judgment of the Hon'ble Supreme Court in **State of Punjab and Haryana Vs.Rafiq Masih (White Washer)** reported in ***(2015) 4 SCC 334***.

3.This Court, having regard to the facts narrated by the learned Single Judge while remitting the matter, is unable to find any merit in the writ appeal.



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The learned Additional Government Pleader is unable to show any irregularity

in the order for remitting the matter for fresh consideration.

4. In such view of the matter, this writ appeal is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]
01.09.2023

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S.S.SUNDAR, J.

and

D.BHARATHA CHAKRAVARTHY, J.

am

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