



W.A.(MD)No.1490 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.A.(MD)No.1490 of 2024 &
C.M.P(MD)No.11572 of 2024

1.The Director,
Sericulture Department,
Asthampatti,
Salem - 636 007.

2.The Assistant Director,
Sericulture Department,
Tenkasi,
Tenkasi District.

...Appellants

vs.

1.A.Subramanian
2.S.Mupudathy
3.P.Pitchaikannu
4.S.Irulachi
5.R.Esakkidurai
6.S.Kannan
7.S.Premma Nayakam
8.M.Panndarasamy



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9.N.Sivasubbiramaniyan

10.M.Murugan

11.R.Ramachandiran

... Respondents

Prayer: Writ Appeal filed under filed under Clause 15 of Letters Patent Act to set aside the order dated 22.03.2024 in W.P.(MD)No.15851 of 2023 on the file of this Court.

For Appellants : Mr.D.Sachikumar
Additional Government Pleader

For Respondents : Mr.G.Thalaimutharasu

JUDGMENT

(Judgment of the Court was delivered by P.VELMURUGAN, J.)

The respondents herein filed a writ petition before this Court in W.P.(MD)No.15851 of 2023 praying to quash the impugned orders in Se.Mu.No.4102/Aa/2011 dated 24.03.2014 and Na.Ka.No. 11438/M3/2020 dated 22.07.2021 and to direct the appellants to reimburse the recovered amount and thereby direct them to pay the respondents' salary in accordance with 6th and 7th Pay Commission.



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2. The Writ Court after hearing the arguments on both sides, disposed of the matter and quashed the proceedings in Se.Mu.No. 4102/Aa/2011 dated 24.03.2014 and directed the appellants to reimburse the recovery amount, if any.

3. The impugned order that was quashed in the writ petition is of the year 2014. The learned Single Judge relied on the Judgment of the Honourable Supreme Court in the case of ***State of Punjab and others vs. Rafiq Masih (White Washer) and others reported in 2015 (4) SCC 334*** and directed the appellants to reimburse the recovered amount to the employees. Challenging the order of reimbursement of the amount recovered, the respondents therein have filed the present appeal.

4. The learned counsel appearing for the appellants would submit that the learned Single Judge relied on the *White Washer's case* and ordered reimbursement of the recovered amount. However, the impugned order dated 24.03.2014 was passed even before the Judgment in *White Washer' case*. Since the Judgment in *White Washer case* was



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passed subsequent to the impugned order of recovery, the Judgment would not be applicable to the present case. Hence, this appeal is liable to be allowed.

5. From a reading of the Judgment in *White Washer's case*, it is seen that, once if amount is paid, even if it is excessive, recovery from employees belonging to Clause III and IV (Group C and D) is impermissible. It is also seen that no retrospective effect has been given to the Judgment and there is also no observation to the effect that if the amount is already recovered from the employees, the same has to be refunded to the employees. In view of the same, we are of the opinion that the *White Washer's case* is not applicable to the present case on hand. Under these circumstances, the order of the learned Single Judge warrants interference.

6. Accordingly, the Writ Appeal is partly allowed. The order dated 22.03.2024 in W.P.(MD)No.15851 of 2023 is set aside as far as the quashment of the recovery order dated 24.03.2014 and the direction of



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reimbursement of recovered amount is concerned. No costs.

Consequently, connected Miscellaneous Petition is closed.

(P.V., J.) (K.K.R.K., J.)
30.09.2024

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

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P.VELMURUGAN, J.
and
K.K.RAMAKRISHNAN, J.

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