



W.P.(MD)No.11431 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.09.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.11431 of 2017

and

W.M.P.(MD).No.8786 of 2017

N.Murugan

... Petitioner

Vs.

1.The President,

P.A.58, Government High/higher Sec. School,

Teachers and Employees Co-operative, Thrift and Credit Society Limited,

No.102, Agraharam Street,

Aranthangi, Pudukkottai District.

2.The Deputy Registrar of Co-operative Society,

Aranthangi Region,

Kamatchi Amman Kovil Street,

Aranthangi - 614 616,

Pudukkottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the impugned order No. Nil dated 13.06.2017 passed by the first respondent and quash the same as illegal.

For Petitioner : Mr.Sachin Ragul
for Mr.S.Sankarapandian

For Respondents : Mrs.D.Farjana Ghoushia,
Special Government Pleader



W.P.(MD)No.11431 of 2017

ORDER

WEB COPY

This Writ Petition has been filed challenging the impugned recovery order dated 13.06.2017, passed by the first respondent, calling upon the petitioner to pay a sum of Rs.4,22,216/- (Rupees Four Lakhs Twenty Two Thousand Two Hundred and Sixteen only) in respect of the alleged excess payments made to the petitioner.

2. Learned counsel appearing for the petitioner drew the attention of this Court to the decision of the Hon'ble Supreme Court in the case of ***State of Punjab and Others Vs. Rafiq Masih and others (Commonly known as White Washer's case)*** reported in ***(2015) 4 SCC 334*** and would submit that the petitioner being a Class-III employee, recovery sought to be made under the impugned order is impermissible in law.

3. However, learned Special Government Pleader appearing for the respondents would submit that since the excess payment sought to be recovered from the petitioner is within the period of five years as the last excess payment pertains to the year 2015, the impugned order passed in the year 2017 is in accordance with law. She would also submit that the impugned proceedings is



W.P.(MD)No.11431 of 2017

only a notice and it is not a final order and therefore, the present Writ Petition is not maintainable.

4. It is well settled law as laid down by the Hon'ble Supreme Court in the decision relied upon by learned counsel appearing for the petitioner in the case of *State of Punjab and Others Vs. Rafiq Masih and other (Commonly known as White Washer's case)* reported in (2015) 4 SCC 334, that recovery from employees belonging to Class-III and Class IV Service (or Group C and Group D) Service in respect of the alleged excess payment is impermissible in law. Admittedly, the petitioner is a Secretary of the first respondent Co-operative Society and belonged to Group-C service. Since he belongs to Group C Service, as per the *White Washer's* case referred to supra, recovery of an alleged excess payment from the petitioner is impermissible in law.

5. Though learned Special Government Pleader appearing for the respondents would contend that the impugned proceedings is only a notice and it is not a final order, this Court is of the considered view that in view of the settled law that no recovery of an alleged excess payment can be made from a Class-III or Class-IV employee, even the issuance of a notice calling upon the petitioner to pay alleged excess payments is impermissible in law.



W.P.(MD)No.11431 of 2017

WEB COPY

6. Therefore, the impugned proceedings will have to be necessarily quashed and this Writ Petition will have to be allowed.

7. Accordingly, the impugned proceedings dated 13.06.2017, passed by the first respondent, calling upon the petitioner to pay the alleged excess payment amounting to Rs.4,22,216/- (Rupees Four Lakhs Twenty Two Thousand Two Hundred and Sixteen only) is hereby quashed and this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

23.09.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

TSG

To

1.The President,

P.A.58, Government High/higher Sec. School,
Teachers and Employees Co-operative, Thrift and Credit Society Limited,
No.102, Agraharam Street,
Aranthangi, Pudukkottai District.

2.The Deputy Registrar of Co-operative Society,

Aranthangi Region,
Kamatchi Amman Kovil Street,
Aranthangi - 614 616, Pudukkottai District.



WEB COPY



W.P.(MD)No.11431 of 2017

ABDUL QUDDHOSE, J.

TSG

W.P.(MD)No.11431 of 2017

23.09.2024