



WP NO. 210 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-03-2025

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THE HONOURABLE MRS JUSTICE N. MALA



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WP No. 210 of 2022

and

WMP.Nos. 240 & 242 of 2022

S.Angulakshmi

W/o. K. Palanisamy Primary School Head Master  
Panchayat Union primary School Periya  
Ottarpalayam Avinashi Panchayat Union,  
Tirupur Distirct 638 460

..Petitioner

Vs

1. The Government of Tamil Nadu  
Rep by secretary to the Government school Education  
Department Fort St. george chennai 09

2. The Director of Elementary Education  
College Road chennai 06

3. The District Educational officer  
Tirupur, Tirupur Distirct

4. The Block Educational officer  
Avinashi panchayat Union,  
Avinashi, Tirupur Distirct

...Respondents

**Prayer :** Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of writ of certiorarified mandamus, calling for the records of the respondents in relation to the proceedings issued in Na.Ka.No 1162 / A1 / A2 / 2018 dated 11.10.2021 issued by the 4th Respondent and quash the same and issue a consequential direction to the respondents to restore the Original pay fixation done in the Statement of Pay fixation in the Proceedings No. Na.Ka.No. 879 / A1 / 2009 dated 30.07.2009 and in Proceedings No. In Na.Ka.No. 1051 / A1 / A2 / 2011 dated 19.05.2011 and in Na.Ka.No. 1625 / A1 / 2013 dated 24.09.2013 by Assistant Elementary Educational officer Avinashi dated 24.09.2013 by Assistant Elementary Educational officer Avinashi Panchayat Union Tirupur (District), now redesignated as Block Educational officer Avinashi Panchayat Union, Tiruppur District.



**For Petitioner : Mr. R.Saseetharan**

**For Respondents : Mr.L.S.M.Hasan Fazil, AGP**

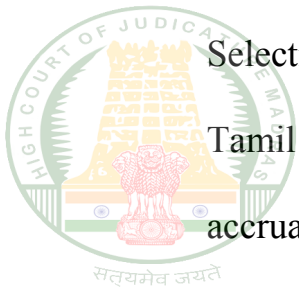
**ORDER**

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Aggreived by the proceedings dated 11.10.2021 issued by the Block Educational Officer/4<sup>th</sup> respondent revising the pay of the petitioner and fixing the same at lower stage from the date of promotion i.e. 02.06.2008 and consequent recovery of the alleged excess payments drawn for 10 years, the present writ petition has been filed.

**Brief Facts of the Case:**

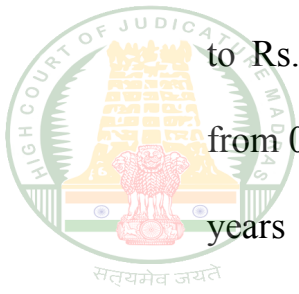
2.1 The Petitioner is working as a Primary School Headmaster at Panchayat Union Primary School, Periya Ottarpalayam, Avinashi Panchayat Union, Tirupur District. She was initially appointed as a Secondary Grade Teacher at Panchayat Union Primary School, Aayee Goundam Palayam, Avinashi Panchayat Union, Tirupur District, on 27.07.1999. As per the scheme in force since 1978, employees were entitled to Selection Grade Pay after 10 years of service and Special Grade Pay after 20 years. The Government of Tamil Nadu, through G.O.Ms.No.234 dated 01.06.2009, introduced a new system of Pay Band + Grade Pay with effect from 01.01.2006, replacing the earlier system. Under this revised system, separate and higher scales for Selection and Special Grades were discontinued after 31.05.2009, and an increment benefit of 3% was instead granted. The Petitioner was promoted as Primary School Headmaster before attaining



Selection Grade and exercised her option under Rule 8 and Rule 10 of Tamil Nadu Revised Pay Scale Rules, 2009, opting for pay fixation on accrual of increment in the promoted post. The Assistant Elementary Educational Officer accepted this option and fixed her pay accordingly, with notional effect from 01.01.2006 and monetary benefits from 01.01.2007.

2.2 The Petitioner continued to receive increments in 2011 and 2013 as per the original pay fixation, and her pay remained undisturbed for 11 years. However, in the year 2018, a Service Association raised objections regarding the pay fixation of several teachers, leading to the District Educational Officer initiating a review. By proceedings dated 06.09.2018, the District Educational Officer sustained the pay fixation of 16 teachers but objected to the pay fixation of 8 others, including the petitioner, and referred the matter to the Government for further action. Despite the matter being pending with the Government, the Block Educational Officer\4<sup>th</sup> respondent, through proceedings dated 13.07.2020, issued a notice pre-determining that the pay fixation done in 2009 was erroneous and directed the Petitioner to submit supporting documents within 7 days to avoid cancellation of the pay fixation. The Petitioner submitted her detailed explanations on 13.07.2020 and 07.11.2020 by citing the relevant Government Orders and Letters, including G.O.Ms.No.240 dated 22.07.2013, but her explanations were rejected by the respondents.

3. Subsequently, the Block Educational Officer/4<sup>th</sup> respondent, by proceedings dated 11.10.2021, refixed the Petitioner's pay from Rs.17,170/-



to Rs.15,860/-, with notional effect from 01.01.2006 and monetary ben  
from 01.01.2011, and ordered recovery of the excess payments drawn over 11  
years in one lumpsum. According to the petitioner, the order passed by the  
Block Educational Officer was without considering the merits of the  
petitioner's explanations or the Rules and Government Orders in force.  
Aggrieved by the re-fixation of her pay and the order of recovery, the  
petitioner has filed the present Writ Petition.

4. The respondents have filed a detailed counter affidavit justifying the  
impugned order passed by the 4<sup>th</sup> respondent.

5. During the course of arguments, the learned counsel for the  
petitioner produced a copy of the order passed by this Court in W.P.Nos.  
1202, 1212 & 1219 of 2022 dated 02.07.2024 and submitted that this Court  
under identical facts allowed the writ petition and directed the respondent  
authorities to restore the pay fixation and disburse the same to the petitioner  
in that writ petition, within a period of six weeks from the date of receipt of a  
copy of the order. The learned counsel for the petitioner further submitted  
that since the issue in the present writ petition is also identical, the said order  
of this Court squarely applies to the facts of the present case, and therefore,  
the same order may be passed in the present writ petition.



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6. Perused the aforesaid order passed by this Court. It is seen that not only the facts are identical, but the order under challenge is also the same. After careful consideration of the facts and submissions of the learned counsels, this Court in the aforesaid writ petitions issued directions to the respondents to restore pay fixation to the petitioners therein. The relevant portion of the said order is as follows;

*9.As rightly pointed out by the learned counsel for the petitioner that as per the Rules and Government orders, the petitioners are entitled to exercise option to get pay fixation in the promoted post at a later date earning an increment, for selection grade, in the lower post, that they are due to get an increment for selection grade on 06.08.2007, while the petitioners were promoted on 25.07.2007, therefore, option is exercised to fix the pay on 06.08.2007 in the promoted post after taking into account the increment in the promoted post. That apart, the order of recovery was made after a period of five years.*

*10.The Hon'ble Supreme Court of India in the case of State of Punjab Vs. Rafiq Masih (White Washer) reported in (2015) 4 SCC 334 held that recovery of any excess payment for the mistake of the department after overlooking period of five years cannot be made. In the present case, the respondents have sought to make recovery from 25.07.2007 to 30.09.2021. Therefore, it is impermissible under law to make recovery after a period of five years from the date of excess payment.*

*11.In view of the above, for all the foregoing observations, the impugned orders are liable to be quashed. Accordingly, the impugned order dated 11.10.2021 is hereby quashed and these writ petitions are allowed. The respondents are directed to restore the original pay fixation of the petitioners and disburse the arrears, if any, within a period of six weeks from the date of receipt of a copy of this order.*



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7. Considering the facts and circumstances of the case and in view of the directions issued by this Court in the order cited supra, this Court directs the respondent-authorities to pass orders to restore the original pay fixation of the petitioner and disburse the arrears, if any, within a period of twelve weeks from the date of receipt of a copy of this order.

8. In the result, the writ petition is allowed. No costs. Consequently, connected Miscellenous Petitions are closed.

**18-03-2025**

Index : Yes/ No  
Internet : Yes/No  
Neutral Citation : yes/No  
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To  
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School Education Department,  
Fort St. George, Chennai.  
  
2. The Director of Elementary Education  
College Road, Chennai.  
  
3. The District Educational officer  
Tirupur, Tirupur Distirct  
  
4. The Block Educational officer  
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