



W.P.No.21302 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2025

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.P.No.21302 of 2025
and
W.M.P.No.24039 of 2025

V.Narasimman

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep by the Principal Secretary to Government,
School Education Department,
Fort St.George,
Chennai – 600 009.

2.The Block Educational Officer,
Panruti,
Cuddalore District – 607 106.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order of the 2nd respondent in Na.Ka.No.0065/A1/2014 dated 15.04.2025 and quash the same.



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For Petitioner : Mr.P.Rajendran

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

The instant writ petition has been filed with a prayer for issuing a writ of certiorari, to call for the records relating to the impugned order of the 2nd respondent in Na.Ka.No.0065/A1/2014 dated 15.04.2025 and quash the same.

2. The learned counsel for the petitioner would submit that he retired from service on 30.06.2024 as BT Head Master in Panchayat Union Middle School, Soorapakkam, Panruti Block, Cuddalore District. It is further submitted that, after his retirement, vide order dated 15.04.2025, the respondent re-fixed the petitioner's pay with effect from 01.01.2006 and directed to recover a sum of Rs.15,89,957/-. It is also submitted that similar recovery was quashed by the Hon'ble Supreme Court of India in ***State of Punjab and Others vs. Rafiq Masih (White Washer) and Others*** reported in ***[(2015) 4 SCC 334]***. Therefore, the learned counsel for the petitioner prays that the recovery be set aside.



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3. Apart from that, it is specifically submitted that no notice was issued to the petitioner prior to the re-fixation of his pay. Therefore, he prays to set aside the impugned order.

4. Per contra, the learned Special Government Pleader appearing for the respondents vehemently objected the petitioner's contention and submits that the re-fixation was done in pursuance of the Government letter dated 15.12.2023, wherein, it was found that the petitioner's pay was fixed at a higher level beyond his entitlement. It is further submitted that pay fixation falls within the expert domain, and therefore, no interference is warranted against the impugned order.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

6. Admittedly, the petitioner retired from service on 30.06.2014 and the impugned order was passed on 15.04.2025, well after his retirement. It is also admitted that prior to passing the impugned order, no notice was given to the petitioner. The Hon'ble Supreme Court of India in *State of Punjab and*



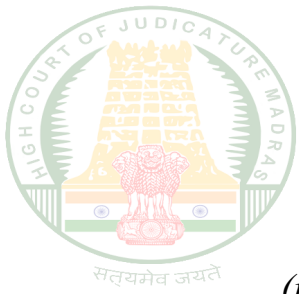
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Others vs. Rafiq Masih (White Washer) and Others reported in ***[(2015) 4 SCC 334]***, has categorically held that if any recovery is ordered beyond the period of five years, the same is liable to be quashed. Moreover, it is not the case of the respondents that the excess pay was made based on any false representation or misrepresentation by the petitioner. At this juncture, this Court deems it appropriate to extract the relevant paragraph from the said judgment. The relevant paragraph is paragraph 18, which reads as follows:-

“18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

- (i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).*
- (ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.*
- (iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*



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(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

7. In view of the above ratio, the order of recovery passed against the petitioner after his retirement, which commences from the period 01.01.2006, would definitely cause great hardship to the petitioner. Hence, applying the above ratio, this Court deems it appropriate to set aside the order of recovery for a sum of Rs.15,89,957/-.

8. Coming to the pay fixation, it is the submission of the learned Special Government Pleader for the respondents, that pay fixation falls within the expert domain, and therefore, the petitioner cannot have any grievance. At the same time, the learned Special Government Pleader appearing for the respondents fairly admits that no notice was given prior to the re-fixation. In such view of the matter, it is necessary for the respondents to hear the



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petitioner's objections before re-fixation.

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9. Hence, the impugned order dated 15.04.2025 is quashed. However, the respondents are granted liberty to re-fix the pay after giving due notice to the petitioner within a period of four weeks from the date of receipt of a copy of this order. On receipt of such notice, the petitioner is directed to submit his reply within a period of two weeks thereafter, and the respondents shall pass a final order within a period of four weeks thereon.

10. With the above observations, this writ petition is allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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Index : Yes/No

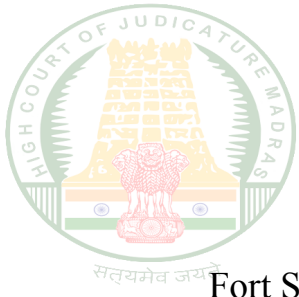
Speaking order /Non Speaking Order

Neutral Citation : Yes/No

To

1.The Principal Secretary to Government,
Government of Tamil Nadu,
School Education Department,

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Fort St.George,
Chennai – 600 009.

2.The Block Educational Officer,
Panruti,
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C.KUMARAPPAN, J.

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