



WP No. 22544 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-07-2025

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CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

WP No. 22544 of 2025

AND

WMP NO. 25375 OF 2025, WMP NO. 25371 OF 2025

1. B.Sundari

32b4 Vishnu Apartment, Vk Raod,

Peelamedu Post, Coimbatore 641 004.

Petitioner(s)

Vs

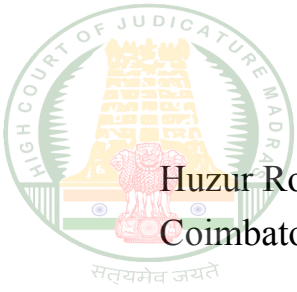
1. The State Of Tamilnadu

Represented By Principal Secretary To
Government, School Education
Department, Secretariat, Buildings,
Fort St George, Chennai 600 009.

2. Directorate Of Elementary Education
Subba Road Avenue, Nungambakam,
Chennai 600 008.

3. The Principal Accountant General
Office Of The Accountant General
Complex, 361 Anna Slaai, Chennai
600 018.

4. District Treasury Officer,



Huzur Road, Collectorate Campus,
Coimbatore 641 117.

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5. Block Educational Officer
Sarkarasamukulam, Coimbatore 641
107.

6. The Secretary
Sri Mvr Memorial Primary School,
Peelamedu, Coimbatore 641 004.

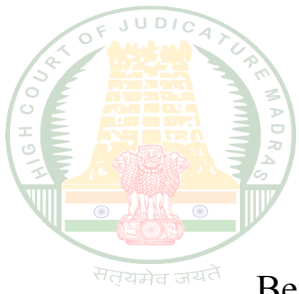
Respondent(s)

PRAYER

This writ petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to quash the impugned proceedings bearing No. P10/1/11033491/ADK dated 02.12.2024 issued by the 3rd respondent and the impugned letter Na ka No. 1307/A2/2024 dated 23.12.2024 issued by the 5th respondent and consequently forbear the respondents from recovering a sum of Rs. 16,19,578/ from the retirements benefits of the petitioner on the ground of alleged excess pay.

For Petitioner(s): Mr. Govind Chandrasekhar

For Respondent(s): Mr. S. Prabhakaran Government
Advocate For R1, 2, 4 and 5
M/s. P. Mano Rajan St. Counsel
Takes Notice For R3



ORDER

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Before proceeding further, it is appropriate to record the submissions made by the learned counsel for the petitioner with respect to the issue of pay fixation. On instructions from his client, the learned counsel fairly admits the correctness of the pay fixation.

2.However, it is the contention of the petitioner that although he retired from service in September 2024, the impugned order directing recovery of a sum of Rs.16,19,578/- towards alleged excess payment made since 2010 was issued only in December 2024, i.e., after his retirement. The petitioner, being a Group 'C' employee, submits that such recovery has been initiated post-retirement, and notably, the amount sought to be recovered pertains to a period more than five years prior to his retirement. In such circumstances, the petitioner contends that the impugned recovery is liable to be interfered with, in view of the principles laid down in the case of *State of Punjab vs. Rafiq Masih* (Whitewasher case).

3.Per contra, the said submissions were stoutly objected to by the learned government advocate and the standing counsel appearing for the 3rd



respondent. They would submit that when the pay was re-fixed, the petitioner agreed to repay the same as and when the excess pay was detected. Therefore, contented that the petitioner cannot have any grievance in respect of the recovery effected.

4. I have given my anxious consideration to either side submissions.

5. Admittedly, the impugned order was passed subsequent to the retirement of the petitioner, and the amount ordered to be recovered pertains to a past period of more than five years, commencing from 2010. Though the learned counsel for the respondents has seriously objected to the contentions raised by the petitioner, it is not their case that the excess payment was made on account of any misrepresentation or submission of false documents by the petitioner.

6. In the light of the above submissions, as rightly contended by the learned counsel for the petitioner, the facts of the present case are squarely covered by the judgement of the Hon'ble Supreme Court in the 'White Washer



Case'(cited supra). For ready reference, this Court deems it appropriate to extract the relevant portion of the said judgement:

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"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 herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

- (i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).*
- (ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.*
- (iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.*
- (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. As per the above judgement, no recovery can be effected from Group 'C' employees, that too after retirement, particularly in cases involving excess payments over a period of exceeding five years. In view of the same, the present

Writ Petition is **Partly allowed** and the impugned order dated 23.12.2024 is set



aside to the extent it relates to recovery. Insofar as pay fixation is concerned, the petitioner has admitted the correctness of the same; hence, this Writ Petition is partly allowed.

8. At this juncture, the learned counsel for the petitioner submits that a sum of Rs.16,19,578/- has already been recovered from the petitioner. If that is so, the respondents are directed to refund the said amount to the petitioner within a period of three months from the date of receipt of a copy of this order, without interest. There shall be no order as to costs. The connected miscellaneous petitions are also closed.

11-07-2025

jrs

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Principal Secretary to government,
School Education Department,
Secretariat, Buildings, Fort St George,
Chennai 600 009.



2. Directorate Of Elementary Education
Subba Road Avenue, Nungambakam,
Chennai 600 008.

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C.KUMARAPPAN J.

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