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W.P.No.23588 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2025

**CORAM
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN**

**W.P.No.23588 of 2025
and
W.M.P.Nos.26506 & 26507 of 2025**

G.Rajaraja Cholan

... Petitioner

Vs.

1. The Director of School Education,
Chennai - 6.
2. The Chief Educational Officer,
Office of the Chief Educational Officer,
Cuddalore District.
3. The District Element Educational Officer (Secondary),
Virudhachalam,
Cuddalore District.
4. The Financial Advisors and Chief Accounts Officer,
Tamil Nadu School Educational Directorate,
Chennai - 600 006.
5. The Head Master,
Government Boys Higher Secondary School,
Virudhachalam,
Cuddalore District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, seeking for an issuance of writ of certiorarified mandamus, calling for the entire records passed by 4th respondent in Na.Ka.No.53130/AKT/2023 dated 21.12.2023 and consequential order passed by the 5th respondent in his proceedings in No.Na.Ka.No.37/2025 dated 17.03.2025 and quash the same so as to allow the petitioner getting incentive for BPED already sanctioned to him.

For Petitioner : Mr.S.Mani

For Respondents : Mr.S.Prabhakaran
Government Advocate for R1 to R5

ORDER

The writ petition is filed challenging the audit objection raised by the fourth respondent vide letter dated 21.12.2023 and the subsequent show cause notice issued by the fifth respondent vide proceedings dated 17.03.2025.

2. The case of the petitioner is that he was appointed as Physical Education Teacher on 29.12.2001, on compassionate grounds. While so, he was sanctioned incentive for acquiring higher qualification for the post of BPED and MPED in the year 2001 itself. Now after a lapse of about 23 years, the fourth respondent has raised audit objection that the post of BPES and BPED are one and same and attempting to recover the same. Hence the



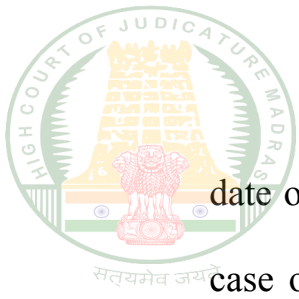
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3. Learned Counsel for the petitioner would submit that the respondents are attempting to recover the amount from the petitioner, as if there was excess pay from 02.01.2002. He would further submit that, if such recovery is proceeded with, then it would make serious impact on his right to life and hence prayed to interfere with the impugned orders.

4. *Per contra*, the learned Government Advocate strongly object the said contention and would submit that the impugned order is only a show cause notice and the same would no way infringe the right of the petitioner. Hence there is no ground to interfere.

5. I have given my anxious consideration to the submission on the either side.

6. According to the petitioner, he was appointed as Physical Education Teacher on 29.12.2001, on compassionate grounds. In the impugned order, the petitioner's pay was refixed from the date of appointment, as the petitioner did not possess required qualification on the



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date of his appointment. However, it is pertinent to mention that it is not the case of the respondent that on the misrepresentation of the petitioner, such excess pay beyond his entitlement was fixed. But it was fixed in the usual course of administration. As such, after making the payment since 2002, at the age of 56, almost after a period of 23 years, if any recovery is effected, it would definitely affect his future life, as the petitioner never dreamt about such recovery at this future point of time. According to him, he spends those amount for all these years as if the same was his entitlement. According to the respondents, it was excess to his entitlement. Apart from that, the above proposition has already been dealt with by the Hon'ble Supreme Court in *White Washer's* case reported in (2015) 4 SCC 334.

7. Though the learned Government Advocate would object that the impugned order is only a show cause notice and it would not infringe any of the rights of the petitioner, and that if the petitioner give explanation, they would consider the same according to it's own merits. But in view of the settled proposition of law in *White Washer's* case, though it is a show cause notice, this Court would like to interfere with the same as it goes against the ratio of the above cited case. But as far as further refixation of the petitioner pay is concerned, there is no objection for the petitioner.



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8. In such view of the matter, the impugned show cause notice is quashed and this Court restrain the respondents from effecting recovery alone. As far as the re-fixation is concerned, the learned Counsel for the petitioner has no objection and the same stands confirmed.

In the result, the Writ Petition stands partly allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

02.07.2025

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Index:Yes/No
Speaking order
Neutral Citation:Yes/No

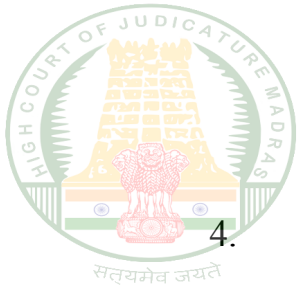
To

1. The Director of School Education,
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Office of the Chief Educational Officer,
Cuddalore District.

C.KUMARAPPAN, J.

veda

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