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W.P.No.30861 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.08.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.30861 of 2025

D.Somu

... Petitioner

Vs

1.The District Adi Dravidar Welfare Officer
Collectorate, Cuddalore
Cuddalore District, Pin – 607 001.

2.The Headmaster
Government Adi Dravidar Welfare Higher
Secondary School
Maduranthakanallur
Chidambaram Taluk
Cuddalore District – 608 201.

3.The Accountant General
(Accounts & Entitlements), Tamil Nadu
361, Anna Salai
Teynampet, Chennai – 600 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the second respondent in Na.Ka.No.A/426/2024 dated 20.08.2024 and quash the said order insofar as



W.P.No.30861 of 2023

ordering of recovery from my retirement benefit is concerned and direct the respondents to refund the recovered DCRG amount of Rs.3,15,948/- with interest at the rate of 12% per annum from the date of entitlement to till the date of disbursement.

For Petitioner : Mr.J.Lakshminarayanan

For Respondents : Mr.V.Jeevagiridharan
Additional Government Pleader for R1 & R2

Mr.P.Manorajan, Standing Counsel for R3

ORDER

The writ petition has been filed for the following relief :

"To issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the second respondent in Na.Ka.A/426/2024 dated 20.08.2024 and quash the said order insofar as ordering of recovery from petitioner's retirement benefits is concerned and direct the respondents to refund the recovered DCRG amount of Rs.3,15,948/- with interest at the rate of 12% per annum from the date of entitlement to till the date of disbursement"

2. It is the case of the petitioner that he was appointed as Secondary Grade Teacher on 23.01.2000 by the first respondent. He was promoted as Primary School Headmaster on 12.01.2021 and was posted at the second



W.P.No.30861 of 2023

WEB COPY

respondent-School. He served in the said institution and had retired on 31.01.2024 on attaining the age of superannuation. Thereafter, he was reemployed in the second respondent-School till 31.05.2024.

3. Be that as it may, the pension proposal of the petitioner was forwarded by second respondent to the third respondent. However, the same was returned by the third respondent by its letter dated 27.03.2024 stating that the incentive increment granted to the petitioner, who possessed the basic qualification of B.Sc., M.A., B.Ed., and not having the qualification of Secondary Grade Teacher Training at the time of his entry, is not admissible. Thereafter, the petitioner received the copy of the impugned proceedings of the second respondent dated 20.08.2024 addressed to the third respondent, with respect to sanctioning of DCRG amount for a sum of Rs.11,47,560/-. The impugned proceedings further states that a sum of Rs.3,15,948/- has to be recovered from the petitioner on account of excess drawn pay and allowances granted to him towards incentive, increments for the period from 01.01.2007 to 31.01.2024. This order of the second respondent was passed without there being any directions issued by the third respondent to recover the said sum. Therefore, the petitioner would contend that the impugned order is contrary to law and it



W.P.No.30861 of 2023

is liable to be set aside. Hence, the petitioner is before this Court seeking to quash the impugned order of the second respondent dated 20.08.2024.

WEB COPY

4. Heard the learned counsel on either side.

5. The factum of recovery post retirement is no longer *res intergra* in view of the ***State of Punjab & Ors Vs Rafiq Masih*** reported in (2015) 4 SCC 334, which goes by the moniker ***White Washer case***, in which the Hon'ble Supreme Court had laid down legal principles in the matter of recovery and also the situation where recoveries by the employers would be impermissible in law. Accordingly, the instant case is covered under situation (ii) viz., *recovery from the retired employees, or the employees who are due to retire within one year, is impermissible*. Therefore, the impugned order directing recovery is set aside, when the recovery had been ordered on the fact that the incentive increment granted to the petitioner, is erroneous.

6. Therefore, the impugned order refixing the pension sum of Rs.65,500/- as against Rs.71,600/- is set aside and the matter is remitted back to the third respondent for refixing the petitioner's retirement benefits based on



W.P.No.30861 of 2025

WEB COPY

the eligibility of the petitioner's incentive, increment. The petitioner shall submit a representation to the third respondent forthwith and the third respondent upon receipt of the representation from the petitioner, shall issue notice to the petitioner, hear him and thereafter, shall pass a speaking order within a period of one month.

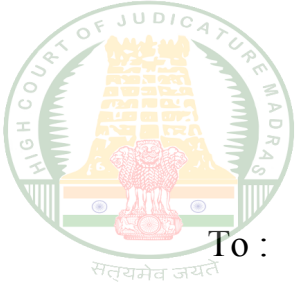
7. Accordingly, the writ petition is partly allowed. No costs.

25.08.2025

Index : Yes / No

Neutral Citation : Yes / No

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W.P.No.30861 of 2023

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WEB COPY

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WEB COPY



W.P.No.30861 of 2025

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