



WEB COPY

W.A.No. 1573 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.No. 1573 of 2024
and
C.M.P.No. 10950 of 2024

1. The Commissioner,
Villupuram Municipality, Villupuram - 605 602.
2. The Commissioner,
Thiruthuraipoondi Municipality,
Thiruthuraipoondi - 614 713.
3. The Commissioner,
Panruti Municipality, Panruti.

...Appellants

Vs.

- 1.J.S.Ali
2. Director of Municipality Administration,
No.75, MRC Nagar, Santhome High Road,
Chennai - 600 028.
3. Director,
Local Fund Audit,
Integrated Complex for Finance Department,
4th Floor, Nandanam,
Saidapet, Chennai - 600 035.
4. The Regional Director of Municipal Administration,
Vellore - 600 0 12.

... Respondents



Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 28.06.2023 made in W.P.No.32885 of 2022.

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For Appellants : Mr.P.Dinesh Kumar

For Respondent : Mr.Mr.Jaya Prakash Narayanan for R1

Mr.C.Selvaraj

Addl. Government Pleader for R2 to R4

J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

We see no ground with the order of the writ Court in as much as the case on hand is squarely covered by the judgment of the Hon'ble Supreme Court in *State of Punjab and Others Vs. Rafiq Masih (White Washer's case)* reported in *AIR 2015 SC 696*.

2. The order impugned in the writ petition itself shows that the excess payment was made prior to 2000 - 2001 and the same was raised as an audit objection even in the year 2000 - 2001. No action was taken. The respondent was appointed as Bill Collector in the year 1992. Though it was stated that the appointment is without the permission of the Commissioner, Municipal Administration, no action was taken pursuant to the said audit



objection. Again, in the audit objections for the year 1999 - 2000, it was stated that the approval of the Government must be obtained for having appointed the respondent as a Bill Collector. Even then, nothing was done.

We are informed that necessary approvals have been obtained.

3. While the respondent was to retire on 30.06.2022, the order impugned in the writ petition came to be passed, withholding the retiral benefits of the respondent and also reserving right to initiate disciplinary proceedings or proceedings by the Directorate of Vigilance and Anti Corruption etc., This order, in our considered opinion, is beyond the jurisdiction of the employer. After all, the respondent has served the Municipal Corporation from 1992, till 2022 for nearly 30 years. Denial of retirement benefits in the case on hand would amount to taking away the right that is vested in the employee.

4. The Hon'ble Supreme Court in *State of Punjab and Others Vs. Rafiq Masih (White Washer's case)* had held that where excess payment has been made in excess of five years before the order of recovery is issued, recovery cannot be made at all. We are therefore, unable to fault the writ



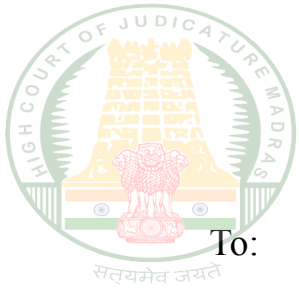
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Court for having allowed the writ petition. This Writ Appeal therefore, fails and it is accordingly, **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M., J.) (G.A.M., J.)
18.02.2025

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Index: No
Speaking order
Neutral Citation : No



To:

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