



W.A.(MD)No.726 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.08.2025

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.726 of 2020
and
C.M.P.(MD)No.4248 of 2020**

- 1.The Director of Elementary
Education of Tamil Nadu,
College Road, Chennai - 600 006.
 - 2.The District Elementary Educational Officer,
RMS Road, Madurai.
 - 3.The Assistant Elementary Educational Officer,
Madurai West, Madurai.
- ... Appellants

Vs.

- 1.Sulochana
 - 2.Rajagopal,
Secretary,
Shanthi Primary School,
K.Pudur, Madurai - 625 007.
- ... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.12792 of 2012 dated 03.06.2019 on the file of this Court.



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For Appellants : Mr.C.Venkateshkumar,
Spl. Government Pleader.

For Respondents : Mr.M.V.Venkataseshan for R1
No appearance for R2

JUDGMENT
(By G.R.SWAMINATHAN, J.)

Heard the learned Special Government Pleader for the appellants and the learned counsel for the first respondent.

2.The department has filed this writ appeal questioning the order dated 03.06.2019 passed by the learned Single Judge in W.P.(MD)No.12792 of 2012 filed by the first respondent herein.

3.The first respondent / writ petitioner was appointed as Headmistress of Shanthi Primary School, Madurai on 13.06.1994. She did not have the prescribed experience of five years as Secondary Grade Teacher. In fact, she should have been allowed to draw salary only as Secondary Grade Teacher and her appointment as Headmistress could



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have been approved after she acquired five years teaching experience.

Be that as it may, her appointment as Headmistress was approved with effect from 13.06.1994 and she was also paid the salary attached to the said post. She retired from service in the year 2011. The department realized following audit objection that excess salary was paid to her. Thereafter, recovery order was passed on 14.02.2012. Applying the ratio laid down in ***White Washer*** case, the learned Single Judge set aside the recovery order and allowed the writ petition.

4.The question that calls for consideration is whether the order of the learned Single Judge warrants interference.

5.The Hon'ble Supreme Court in the decision reported in **(2015) 4 SCC 334 (State of Punjab Vs. Rafiq Mashhi (White Washer))** had categorically held that recovery from retired employees or the employees due to retire within one year is impermissible. In this case, the recovery order was passed after the writ petitioner retired from service. The learned Single Judge had set aside the order of recovery alone and refixation was upheld. Therefore, the retirement benefits payable to the



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writ petitioner will be have to settled in terms of the refixation order.

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This shall be done as expeditiously as possible.

6.The approach adopted by the learned Single Judge is justified and the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (K.R.S. J.)
18.08.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:

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