



*W.P.(MD)No.19916 of 2022*

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 22.10.2025**

**CORAM**

**THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE**

**W.P.(MD)No.19916 of 2022**

**and**

**W.M.P.(MD)Nos.14509 of 2022 & 16946 of 2024**

K.Ahamed Hussain

: Petitioner

Vs.

1.The Commissioner of School Education,  
College Road,  
Chennai – 6.

2.The Regional Accounts Officer,  
Office of Regional Accounts Office (Audit),  
School Education Department,  
Madurai – 2.

3.The Chief Educational Officer,  
Tenkasi,  
Tenkasi District.

4.The District Educational Officer,  
Tenkasi,  
Tenkasi District.



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5.The Head Master,

Government Boys Higher Secondary School,  
Sengottai,  
Tenkasi District.

: Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the Audit Objection portion relevant to me issued by the second respondent in his proceedings in Na.Ka.No.388/A5/2017, dated 20.02.2018 and the consequent order passed by the fourth respondent in his proceedings in Na.Ka.No.1078/A1/2020 dated 29.07.2022 and quash the same as illegal.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.S.Shaji Bino,  
Special Government Pleader

### **ORDER**

The issue that arises for consideration in this Writ Petition is whether the petitioner is entitled to get back his special grade under Watchman / Waterman post and is also entitled to seek for quashing the impugned recovery order.



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**2.The following are the undisputed facts:**

a) The petitioner was awarded special grade while he was holding the post of Watchman / Waterman. The same was cancelled by the respondents based on audit objections on the ground that the post of Watchman / Waterman is not available.

b) During the period when the petitioner was holding the post of Watchman / Waterman, on account of the excess payments made to the petitioner, the respondents have recovered the excess payments made to the petitioner under the impugned recovery order.

c) According to the respondents, due to the erroneous awarding of special grade to the petitioner, under the Watchman / Waterman post, the respondents had made excess payments to the petitioner for the period during which he was holding the said post and therefore, it became necessary for them to issue the impugned recovery order.

**3.The petitioner has challenged the impugned order on the following grounds:**

a) Being a class VI employee, the impugned recovery order is bad in law and is contrary to the decision of the Hon'ble Supreme Court in the case of ***State of Punjab and others Vs. Rafiq Masih (White Washer) reported in (2015) 4 SCC 334.***



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b) For no fault of the petitioner, the petitioner should not be penalised by demoting him to his original post and by cancelling the award of special grade in the post of Watchman / Waterman.

4.A counter affidavit has been filed by the respondents denying the contentions of the petitioner. They would categorically contend that erroneously, the petitioner was awarded special grade under the Watchman / Waterman post though Watchman / Waterman post is not available. They would also contend that the recovery order issued against the petitioner under the impugned order is only due to the fact that the petitioner had received excess payments on account of the erroneous award of special grade to him in the post of Watchman / Waterman. Hence, according to the respondents, the recovery order has to be sustained.

5.Admittedly, the petitioner is a Clause IV employee, the law is now well settled by the decision rendered by the Hon'ble Supreme Court in the case of ***State of Punjab and others Vs. Rafiq Masih*** reported in (2015) 4 SCC 334 commonly known as ***White Washer's*** case that recovery from a Class IV employee is legally impermissible eventhough the payments were made



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erroneously when there is no fault on the part of the employee. In view of the well settled law, the impugned recovery order has to be quashed.

**6.** Learned Counsel for the petitioner would submit that amounts have already been recovered from the petitioner pursuant to the impugned order and hence, a direction will have to be issued by this Court to refund the said amounts to the petitioner.

**7.** Learned Special Government Pleader for the respondents would submit that there is no provision for refund. Hence, such a request made by learned Counsel for the petitioner cannot be considered by this Court.

**8.** However, this Court is of the considered view that when it has been held by this Court that the impugned recovery order is bad in law, the petitioner cannot be made to suffer for no fault of his. Therefore, necessarily this Court will have to direct the respondents to refund the amount, if any, recovered from the petitioner pursuant to the impugned recovery order. Accordingly, insofar as recovery of the amounts from the petitioner a per the impugned order is concerned, the said order is quashed and a direction is also issued to



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the respondents to refund the amounts recovered from the petitioner pursuant to the impugned order if any within a period of twelve [12] weeks from the date of receipt of a copy of the order. Insofar as the second limb of the petitioner's prayer namely to get back the special grade in the post of Watchman / Waterman is concerned, this Court is of the considered view that the same cannot be granted in favour of the petitioner in view of the fact that the post of Watchman / Waterman is not a post available for appointment as per the rules framed by the respondents. Therefore, the second limb of the prayer has to be rejected by this Court.

9. In terms of the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

**22.10.2025**

Index : Yes / No  
Internet : Yes / No  
NCC : Yes/No  
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**ABDUL QUDDHOSE., J.**

MR

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