



W.A.(MD).No.2703 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.01.2025

CORAM

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.A.(MD).No.2703 of 2024
and
C.M.P.(MD).No.18694 of 2024

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George,
Chennai - 600 009.
- 2.The Director of School Education,
College Road,
Chennai - 600 006.
- 3.The Joint Director of School Education,
(Higher Secondary Education),
College Road,
Chennai - 600 006.
- 4.The Chief Educational Officer,
Kanyakumari.
- 5.The District Educational Officer,
Thiruvattar,
Kanyakumari District



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6.The Headmaster,
Government Higher Secondary School,
Arumanai 629 151,
Kanyakumari District.

... Appellants/Respondents 1 & 3 to 7

Vs.

1.R Sreekumar,
P.G.Assistant in Tamil,
Government Higher Secondary School,
Arumanai 629 151,
Kanyakumari District.

... 1st Respondent/Writ Petitioner

2.The Accountant General,
No.361, Anna Salai,
Chennai - 600 018.

... 2nd Respondent/2nd Respondent

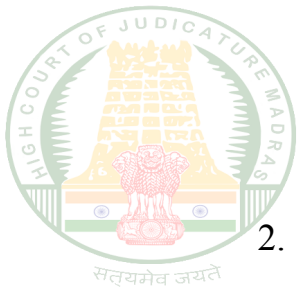
PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 08.03.2024 made in W.P.(MD).No.10527 of 2022 and allow the Writ Appeal.

For Appellants : Mr.J.Ashok
Additional Government Pleader
For R-1 : Mr.S.Bharathy Kannan

JUDGMENT

(Judgment of the Court was made by M.S.RAMESH,J.)

This Writ Appeal has been filed against the order of the learned Single Judge in W.P.(MD).No.10527 of 2022 dated 08.03.2024.

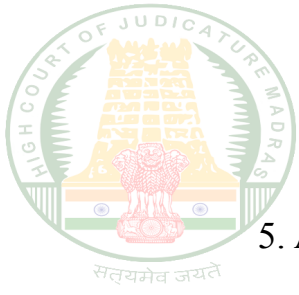


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2. Based on the audit objection that the first respondent herein was predominantly granted selection grade scale of pay, refixation of his pay scale and consequential recovery came to be ordered by the appellants.

3. The learned Single Judge, while upholding the impugned order insofar as refixation of the pay scale is concerned, had set aside that portion of the order, wherein, recovery of the excess amount was sought to be made. For such a finding, the learned Single Judge had placed reliance on the decision of the Hon'ble Supreme Court in the case of ***State of Punjab and others Vs. Rafiq Masih (White washer) and others*** reported in ***(2015) 4 SCC 334***.

4. In the aforesaid decision, the Hon'ble Supreme Court had held that the recovery of excess payment made, over and above a period of five years, due to the fault of the Department, is impermissible in law. In the instant case, admittedly, the grant of selection grade pay scale was owing to the fault of the Department. While that being so, the recovery of the excess payment cannot be made in the light of the decision of the Hon'ble Supreme Court. As such, we do not find any reason to interfere with the order of the Writ Court.



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5. Accordingly, the Writ Appeal stands dismissed. There shall be no order

as to costs. Consequently, connected miscellaneous petition stands closed.

(M.S.R.,J.) (A.D.M.C.,J.)
07.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

The Accountant General,
No.361, Anna Salai,
Chennai - 600 018.



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and
A.D.MARIA CLETE,J.

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