



W.A.(MD)No.2681 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2025

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CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A.(MD)No.2681 of 2024

and

C.M.P.(MD)No.18621 of 2024

1.The Director of School Education,
O/o. The Director of School Education,
DPI Compound, College Road,
Chennai.

2.The Chief Educational Officer,
O/o. The Chief Educational Officer,
Dindigul, Dindigul District.

3.The District Educational Officer,
O/o. The District Educational Officer,
Anna Nagar, Palani,
Dindigul District.

4.The Head Master,
Government High School,
A.Kalyamputhur, Palani Taluk,
Dindigul District.

: Appellants

Vs.

R.Keerthiga

: Respondent



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 06.06.2024 made in W.P. (MD)No.11843 of 2024.

For Appellants : Mr.J.Ashok
Additional Government Pleader
For Respondent : Mr.T.Lenin Kumar

JUDGMENT

[Judgment of the Court was delivered by **M.S.RAMESH, J.**]

Challenge is made to the order of the learned Single Judge dated 06.06.2024 made in W.P.(MD)No.11843 of 2024.

2.Claiming that the respondent herein was wrongly awarded with the special pay under G.O.(Ms).No.23, Finance (Pay Cell) Department dated 12.01.2011, which provides for such grant of special pay notionally from 01.01.2006, the appellants herein had sought for refixation of her pay and for consequential recovery of the excess amount paid through the order dated 19.01.2024, which was impugned in the Writ Petition.

3.Learned Single Judge has placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***State of***



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Punjab and others Vs. Rafiq Masih [White Washer's case] and had quashed the impugned order. The Hon'ble Supreme Court in **White Washer's** case, has *inter alia* held that recovery of excess amount over and above a period of five years is impermissible in law, when such excess payment is not due to the fault of the concerned employee.

4. In the instant case, the respondent was appointed as Secondary Grade Teacher on 08.01.1999 and promoted to the post of B.T. Assistant on 25.09.2008. The Government has passed orders in G.O.(Ms).No.23, Finance (Pay Cell) Department dated 12.01.2011, sanctioning special pay to the Secondary Grade Teachers notionally with effect from 01.01.2006. The benefits of G.O.(Ms)No.23, was extended to the respondent herein also. After about 13 years, the impugned order has been passed on 19.01.2024. In view of the law laid down in **White Washer's** case, such recovery over a period of five years, is impermissible.

5. Learned Counsel for the respondent would submit that he is not questioning the fixation of the scale of pay, insofar as the extension of benefits in G.O.(Ms).No.23, Finance (Pay Cell) Department dated 12.01.2011 is concerned. Hence, no interference is required to that portion of the impugned order, whereby the petitioner's scale of pay has been re-fixed in accordance with G.O.



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(Ms).No.23. However, it is once again reiterated that the alleged excess payment cannot be recovered from the respondent herein. Consequently, there shall be a direction to the appellants herein to refund the amount already recovered from the respondent herein forthwith, in any event, within a period of six [6] weeks from the date of receipt of a copy of this order.

6.Accordingly, this Writ Appeal stands closed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

[M.S.R.,J.] & [A.D.M.C.,J.]

20.01.2025

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



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JUDGMENT MADE IN
W.A.(MD)No.2681 of 2024

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