



W.A(MD) No.1301 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 02.06.2025

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

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and

C.M.P.(MD)No.7870 of 2025

1.The Treasury Officer,
District Treasury,
Virudhunagar District.

2.The Assistant Treasury Officer,
Sub-Treasury,
Kariapatti,
Virudhunagar District.

... Appellant / Respondents 3&4

Vs

1.R.Chinnamuthu

... 1st Respondent / Writ Petitioner

2.The State of Tamil Nadu,
Represented by its Principal Accountant General,
(Accounts and Entitlements),
No.31, Anna Salai,
Chennai-600 018.

3.The Assistant Elementary Educational Officer,
Kariapatti,

Virudhunagar District-626 106. ... Respondents 2 &3/ Respondents



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order passed in W.P.(MD)No.1513 of 2016, dated 27.02.2023 by allowing the writ appeal.

For Appellant : Mr.A.Kannan
Additional Government Pleader

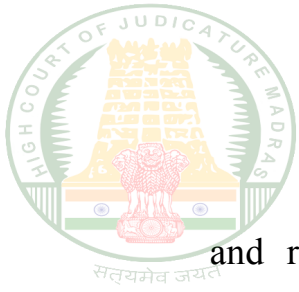
For Respondents : Mr.G.Karthick,
for M/s.Roy and Roy Associates
for R1
: Mrs.S.Mahalakshmi
for R2
: Mr.C.Venkatesh Kumar
Special Government Pleader for R3

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. The writ petitioner was appointed as secondary grade teacher in the Government School in the year 1982. He retired from service on 31.05.2006. On 07.05.2013, the Government passed an order holding that the writ petitioner's pension was erroneously fixed on the higher side



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and recovery to the tune of Rs.3,65,690/- was ordered. The writ petitioner did not challenge the recovery initially. Only in the year 2016, he filed W.P.(MD)No.1513 of 2016. The writ petition was partly allowed on 27.02.2023. By then, a sum of Rs.1,76,882/- had already been recovered. The learned single Judge did not order refund of the recovered amount. The learned single Judge only directed that the balance amount of Rs.1,88,888/- should not be recovered. Challenging the said order dated 27.02.2023, the State has filed this writ appeal.

3. The writ petitioner does not belong to “C & D” category. He in fact belongs to “B” category. Obviously, he must have been aware that his pension had been fixed on the higher side. Yet he chose to reap the excess financial benefit. Equity is not on the side of the writ petitioner. However, we have to reluctantly observe that Clause III of the *White Washer case (State of Punjab Vs. Rafiq Masih (White Washer) reported in (2015) 4 SCC 334)* comes to his rescue. The Hon'ble Supreme Court had held that recovery would be impermissible in the following cases:-



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“(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

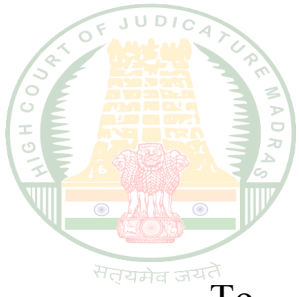
(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.”

4. The case on hand falls within the aforesaid Clause III. In this view of the matter, the learned single Judge rightly granted relief. There is no ground to interfere. The Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (K.R.S., J.)
02.06.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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To
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The Assistant Elementary Educational Officer,
Kariapatti,
Virudhunagar District-626 106.



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