



W.A(MD)No.1292 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.06.2025

CORAM

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

**W.A(MD)No.1292 of 2025
and
C.M.P(MD)No.7842 of 2025**

- 1.The Secretary,
Education Department,
Fort St.George,
Chennai – 600 009.
- 2.The Director,
The Elementary Education,
DPI Campus,
Chennai – 600 006.
- 3.The District Education Officer,
The Elementary Education Department,
Madurai District – 625 002.
- 4.The Block Development Officer,
The Elementary Education Department,
Madurai East,
Madurai District – 625 020.

... Appellants /
Respondents 1 to 4

Vs.

1.S.Chitra

... 1st Respondent /
Writ Petitioner



W.A(MD)No.1292 of 2025

2.The Assistant Director,
State Government of Audit Department,
Madurai Region,
Pankajam Colony,
Teppakulam,
Madurai – 625 009.

... 2nd Respondent /
5th Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 22.07.2024 in W.P(MD)No.16159 of 2024 and allow the Writ Appeal.

For Appellants : Mr.C.Venkatesh Kumar
Special Government Pleader

For Respondents : Mr.K.Muthu Ganesa Pandian

JUDGMENT

(Judgment of the Court was made by **G.R.Swaminathan J.**)

Heard both sides.

2.The first respondent herein joined the Education Department as Secondary Grade teacher in the year 1984. She got selection grade in the year 1994. She became elementary school Headmistress in the year 2000. She got

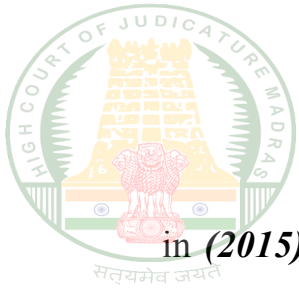


W.A(MD)No.1292 of 2025

selection grade in the year 2004. She became Middle School Headmistress in the year 2009. She got selection grade in the year 2019. She voluntarily retired from service on 31.05.2023. While so, the Block Educational Officer, Elementary Education Department, Madurai East, Madurai passed order dated 29.04.2024 directing recovery of a sum of Rs.18,29,480/- (Rupees Eighteen Lakhs Twenty Nine Thousand Four Hundred and Eighty only) from her. According to the Department, her pay fixation was erroneously done with effect from 01.07.2006.

3.Challenging the recovery order, the first respondent herein filed W.P(MD)No.16159 of 2024. The Writ Petition was allowed by the learned single Judge and the recovery order was set aside by applying the well known ***White Washer's case (State Of Punjab & Ors vs Rafiq Masih)***. Questioning the order dated 22.07.2024 whereby W.P(MD)No.16159 of 2024 is allowed, the Department has filed this Writ Appeal.

4.There is no serious dispute that the pay of the first respondent was erroneously fixed. The only question that calls for consideration is whether when the first respondent was not at fault, recovery could be ordered at this point of time. It is true that the Hon'ble Supreme Court in the decision reported



W.A(MD)No.1292 of 2025

in (2015) 4 SCC 334 (*State Of Punjab & Ors vs Rafiq Masih*) had held that

recovery from the employees when the excess payment has been made for a period in excess of 5 years, it is impermissible. But then, this is a continuing cause of action. Therefore, while the excess payment made from the year 2006 to 2019 cannot be ordered to be recovered, the excess payment received by the first respondent for the period of 5 years prior to 29.04.2024 can very well be ordered to be recovered and the parameter laid down in the *White Washer's case* may not come to the first respondent's rescue. The order is accordingly modified. We permit the appellants to recover the excess payment received by the writ petitioner / first respondent herein for a period of 5 years prior to 29.04.2024. The first respondent will pay only the re-fixed pension amount with effect from 29.04.2024.

5.This Writ Appeal is partly allowed. There shall be no order as to costs.

Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [K.R.S., J.]
04.06.2025

NCC : Yes / No
Internet : Yes / No
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W.A(MD)No.1292 of 2025

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The Assistant Director,
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W.A(MD)No.1292 of 2025

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and

K.RAJASEKAR, J.

MGA

W.A(MD)No.1292 of 2025

04.06.2025