



WEB COPY

WP No. 7783 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-03-2026

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

WP No. 7783 of 2026

AND

WMP NO. 8382 OF 2026

N.Lakshmi
W/O.Elangovan
No.43,Anbu Nagar,
2nd street
Phase-III, Sathuvachari
Vellore-632 009

..Petitioner(s)

Vs

1. The Director
Elementary school Education
D.P.I.Complex
Chennai-600 006
2. The District Educational officer (Elementary)
Vellore
Vellore District
3. The Block Educational officer
Katpadi Union
Vellore District

..Respondent(s)

Prayer: - Writ petition filed under Article 226 of the constitution of India
praying for issuance of a writ of Certiorari calling for the records relating to the



order passed by the 3rd respondent in Na.Ka.No.631/A5/2025 dated 9.2.2026 quash the same.

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For Petitioner(s): Mr.V.Elangovan

For Respondent(s): Ms.Mythreye Chaudru for R1 and R2

ORDER

This Writ Petition is filed for the following reliefs:-

" calling for the records relating to the order passed by the 3rd respondent in Na.Ka.No.631/A5/2025 dated 9.2.2026 quash the same.

Brief Facts:-

2. The petitioner was appointed as a Secondary Grade Teacher in the year 1987. During the course of service, the 2nd respondent sanctioned incentive increments to the petitioner, namely one notional increment for the completion of B.A. and another increment for B.Ed. Qualifications.

3. While so, the 2nd respondent initiated recovery proceedings in Na.Ka.No.1475/A2/2025 dated 09.06.2025, stating that the incentive increment scheme had been withdrawn and cancelled by the Government vide G.O.Ms.No.118, School Education Department, dated 10.07.2013. Based on the said Government Order, the 2nd respondent revised the petitioner's salary with retrospective effect from 24.11.2008 and directed recovery of the alleged excess



salary paid. Aggrieved by the same, the petitioner had filed a writ petition in W.P.No.28938 of 2025, dated 06.08.2025. The said writ petition was disposed of by this Court by recording the statement made by the 3rd respondent as follows:-

“5. At this juncture. the learned Special At Government Pleader would submit that this is not a communication to the petitioner and this is only an internal office communication and would submit before this Court that before passing any order, they will issue notice and afford opportunity to the petitioner to explain her defence.

6. Recording the above submissions of the learned Special Government Pleader, the Writ Petition is closed. No costs. writ miscellaneous petitions are closed. Consequently, the connected Miscellaneous petitions are closed.”

4. However, subsequently, without issuing any notice or conducting any enquiry, the 3rd respondent had passed an order in Na.Ka.No.631/A5/2025 dated 09.02.2026, revising and refixing the petitioner's salary by cancelling the incentive increments with retrospective effect from 24.11.2008 (i.e., from the date of sanction). The petitioner was further directed to repay the alleged excess salary in a single installment amounting to Rs.13,26,218/-. Challenging the same, the petitioner is before this Court.



5. Heard the learned counsel on either side and perused the records.

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6. The petitioner seeks to quash the impugned order dated 09.02.2026 in and by which at the verge of the petitioner's retirement recovery proceedings have been initiated against the petitioner stating that incentive increment scheme had been withdrawn and cancelled by the Government vide GO.Ms.No.118 dated 10.07.2013 and the 2nd respondent had consequently revised the salary of the petitioner with retrospective effect.

7. The very same issue had come up for consideration before this Court in WP.No.4081 of 2022. The learned Judge relied upon an earlier Division Bench's judgment in WA.No.1792 of 2019 dated 16.10.2022 wherein the Bench had held as follows:-

"52. Further, the Government withdrew the incentive increment vide G.O.Ms.No.118, School Education Department, dated 10.07.2013 only in the year 2013. Between 15.12.2000 and 10.07.2013 both the appellants and the respondents were governed by G.O.Ms.No.307, School Education Department, dated 15.12.2000.

53. Further, G.O.Ms.No.118 has also not authorised the appellants to order for recovery or re-calculation of incentive increments granted earlier to those persons who have already



retired. In our view, G.O.Ms.No.118, School Education Department, dated 10.07.2013 also has to be held to be prospective and not retrospective”.

8. The learned Judge held that the impugned order violated the judgement passed in WA.No.1792 and by also relying upon the judgement of the Hon’ble Supreme Court reported in **(2015) 4 SCC 3334 – State of Punjab and others Vs. Rafiq Masih (White Washer)** had ultimate held as follows:-

“11. One more reason in support of the unsustainability of the impugned order is that it runs contrary to the law laid down by the Hon'ble Apex Court in State of Punjab and Others Vs. Rafiq Masih (White Washer) and others reported in (2015) 4 SCC 3334. The Hon'ble Apex Court while summarising the law on recovery of excess payments made to employees held as follows:

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

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

(iii) Recovery from the 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”.

In my view, Clause (iii) of the above judgment is squarely attracted to this case. Admittedly the petitioner was drawing incentive increment for more than 21 years and therefore as per Clause (iii) of the above Apex Court judgment, the recovery is illegal. Apart from being in violation of Clause (iii) of the aforesaid decision, in my respectful view, the impugned order is inequitable and unduly harsh on the petitioner, who is not responsible for the excess payments made to her over a period of 21 years.

12. In view of the facts and circumstances of the case and the law laid down by this court as well as the Apex Court, I find merit in the writ petition. Hence, the writ petition is allowed and the impugned order dated 02.02.2022, passed by the 2nd respondent is set aside. The respondents are directed to pay the incentive increment to the petitioner for the M.A., degree obtained by her, as expeditiously as possible. No costs. Consequently, the connected miscellaneous petitions are closed.”

9. This judgment applies squarely to the facts of the present case. Consequently, this Writ Petition is allowed and the impugned order is set aside. The respondents are directed to continue to pay the incentive increment to the



petitioner forthwith. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

SHR

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P.T.ASHA J.

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