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W.P.No.23794 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2026

CORAM:

THE HONOURABLE MR.JUSTICE T.VINOD KUMAR

W.P.No.23794 of 2021

V.Hemalatha

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Petitioner

Vs

1.The Director of Elementary Education,
DPI Campus,
Chennai – 600 009.

2.District Educational Officer,
Nilgiris District.

3.Block Educational Officer,
Coonnor Block,
Nilgiris District.

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Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records of the third respondent in No.Na.Ka.564/A1/2021, dated 04.04.2021, and quash the same and consequently direct the respondents to continue to pay the salary of the petitioner as per the proceedings of the third respondent in Na.Ka.No.1787/A1/2012, dated 11.03.2013.



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For Petitioner : Ms.Pavithra R

For Respondents : Mr.S.Prabhakaran,
Govt. Advocate.

ORDER

Heard Ms.R.Pavithra, learned counsel for the petitioner, and Mr.S.Prabhakaran, learned Government Advocate, for the respondents, and also perused the records.

2. Petitioner, by the present writ petition, has assailed the action of the third respondent in issuing proceedings in No.Na.Ka.564/A1/2021, dated 04.04.2021, and to quash the said proceedings with a consequential direction to the third respondent to pay the salary of the petitioner as per the proceedings in Na.Ka.No.1787/A1/2012, dated 11.03.2013.

3. It is the further case of the petitioner that by the impugned proceedings, dated 04.04.2021, the third respondent sought to re-fix the salary of the petitioner without issuing any notice or giving an opportunity to the petitioner, apart from seeking to recover an amount of Rs.11,01,824/-, claiming the said amount as excess paid amount, to which the petitioner is not entitled.



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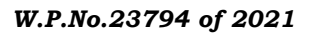
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4. It is mainly contended by the petitioner that the third respondent, before issuing the impugned proceedings, did not issue any notice or afford any opportunity to her and, thus, the impugned proceeding has been passed in violation of principles of natural justice.

5. It is the further contention of the petitioner that since she is working as B.T.Assistant, she would fall under Group 'C' category of employees; no recovery can be made as per the judgment of the Apex Court in the case of *State of Punjab v. Rafiq Masih (White Washer) and Others*, 2015 (4) SCC 334, and, thus, the impugned order to the extent of recovery is liable to be set aside.

6. Counter affidavit on behalf of third respondent is filed.

7. The third respondent, by the counter affidavit, however, justified its action in resorting to re-fixation of the salary of the petitioner, on the ground that since, the petitioner was relieved from aided educational institution, she forfeited her right regarding her service in the erstwhile aided school and, as such, the petitioner is not entitled for being paid higher salary, which was wrongly claimed by her and, thus, the action of re-fixation of salary was undertaken and also the recovery of excess salary paid was resorted to and hence the impugned order is in accordance with the procedure and the fundamental rules.



9. Though the respondent claims that the petitioner has forfeited her position on giving up her employment and being relieved from the aided educational institution and as such she is not entitled to the pay which was drawn by her, it is to be noted that the action of the respondent in re-fixation of the petitioner particularly by way of reduction has civil consequences. As such, the authorities were required to put the petitioner on notice, before resorting to the aforesaid action.

10. Admittedly, inasmuch as no notice was issued to the petitioner while undertaking the aforesaid exercise of re-fixation of pay, the impugned order cannot be sustained. Further, since the petitioner falls under Group 'C' category of employees, the excess payment of salary paid, not being on account of any mis-representation by her, cannot be recovered in terms of the judgment of the Hon'ble Supreme Court in the case of *State of Punjab v. Rafiq Masih (White Washer) and Others*, 2015 (4) SCC 334, which dictum has been consistently followed by this Court in W.P.No.9243 of 2019 decided on 26.11.2025, W.P.No.33040 of 2019, decided on 28.11.2025, and other cases.

11. In view of the above, since, the impugned order, in so far as re-fixation of salary of the petitioner has been issued without putting the petitioner on notice/affording an opportunity to the petitioner, this Court is of the view that the impugned order cannot be sustained to that extent.



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Accordingly, the impugned order is set aside to such an extent. The respondents are at liberty to proceed afresh, after issuing notice to the petitioner in accordance with law.

12. In so far as the recovery of excess payment of salary is concerned, since, the petitioner falls in Group 'C' category of employees, no amount can be recovered from her, as the said payment was made not on account of any mis-representation by the petitioner, but on account of lapses on the part of the respondent. Accordingly, the impugned order to the extent of recovery is set aside.

13. Writ Petition is disposed of as above. No costs. Consequently, the connected W.M.P.Nos.25060, 25061 of 2021 and 3251 of 2022 are closed.

20.01.2026

dixit

To:

- 1.The Director of Elementary Education,
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Chennai – 600 009.
- 2.District Educational Officer,
Nilgiris District.
- 3.Block Educational Officer,
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T.VINOD KUMAR, J.

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