IN THE HIGH COURT of JUDICATURE AT MADRAS

DATED: 01-04-2026

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WA No. 449 of 2026
and
CMP No. 4341 of 2026

1. The District Health Officer
   District Health Office,
   Erode 600 012.

2. The Block Medical Officer
   Primary Health Centre,
   Modakurichi,
   Erode District 638 104.

..Appellant(s)

Vs

K. Singaravelu
S/o. Karuppanan,
No.77/10, Bharathipalayam 1st Street,
Railway Colony (Post),
Near AM Mahal,
Erode 638 002.

..Respondent(s)

Prayer: Appeal filed under clause 15 of the Letters Patent to set aside the order dated 19.06.2025 passed in WP.No.21761 of 2025 and allow this Writ Appeal

For Appellant(s): Ms.M.Sneha,
Special Counsel
for Health and Family Welfare Department

For Respondent(s): Mr.R.Ezhilarasan

Judgment

(Judgment of the Court was delivered by N.Senthilkumar J.)

This intra court appeal has been filed challenging the order passed by the Writ Court in WP.No.21761 of 2025 dated 19.06.2025.

2.The Respondent/writ petitioner filed Writ Petition to call for the records relating to the Proceedings dated 05.01.2024 and 08.01.2024 passed in R.No.672/2023 on the file of the 2nd Appellant, quash the same and to direct the Appellants to refund a sum of Rs.2,88,154/- with interest and fix his original pay scale with all attendant benefits.

3.The case of the respondent is that he was appointed as Multi Purpose Health Assistant on 20.07.1989 and got subsequent promotions. An order dated 08.01.2024 vide Na.Ka.No.672/2023 was passed by the 2nd Appellant to recover a sum of Rs.2,88,154/- from the retirement benefits of the Respondent/writ petitioner. The recovery was effected from 01.08.2010 on the ground that there was an excess pay since 01.08.2010.

4.Mrs.Sneha, learned counsel appearing on behalf of the Appellants contended that the writ Court had relied upon the judgment of the Hon'ble Supreme Court in ***State of Punjab and others vs. Rafiq Masih (White Washer) and others***, reported in ***(2015) 4 SCC 334***, where the Supreme Court has held that after retirement of employee, the Appellants have no authority to recover the excess payment made to an employee. She made an attempt to distinguish the White Washer's case by relying on the judgment of the Hon'ble Supreme Court rendered in ***High Court of Punjab & Haryana & Ors Vs. Jagdev Singh*** reported in (2016) 14 Supreme Court Cases 267, stated that the Hon'ble Apex Court while deciding the above case, referred to the ***White Washer's*** case and made the following observation:

> *"11. The principle enunciated in Proposition (ii) above cannot apply to a situation such as in the present case. In the present case, the officer to whom the payment was made in the first instance was clearly placed on notice that any payment found to have been made in excess would be required to be refunded. The officer furnished an undertaking while opting for the revised pay scale. He is bound by the undertaking."*

5.A perusal of the judgment of the Hon'ble Supreme Court rendered in ***High Court of Punjab & Haryana & Ors Vs. Jagdev Singh*** reported in *(2016) 14 Supreme Court Cases 267* reveals that the Hon'ble Supreme Court has specifically stated that if any undertaking was furnished by the Officer while opting for the revised pay scale, then he is bound by the same. It is not in dispute that the writ petitioner had given an undertaking to the Appellants, however, the exercise of recovery ought to have been initiated during his period of service and not after the retirement period, which is clearly mandated by the judgment of the Hon'ble Apex Court in the ***White Washer's*** case. Therefore the judgment relied upon by the learned counsel for the appellants is not applicable to the facts and circumstances of the present case.

6.The learned counsel for the Appellants fairly submitted that Division Bench of this Court by order dated 26.03.2026 has dismissed an identical case in W.A.No.427 of 2026. The said order is usefully extracted hereunder:

> *"5. The writ Court having considered the dictum laid down by the Hon'ble Supreme Court in the case of* ***State of Punjab and others Vs. Rafiq Masih (White Washer) and others,*** *reported in* ***(2015) 4 SCC 334,*** *where five situations have been postulated by*

the Hon'ble Supreme Court under which such kind of recovery has been declared to be impermissible, has allowed the said writ petition.

*6. Insofar as the re-fixation of salary is concerned, liberty was given to the employer by remitting the matter to the employer to re-fix the correct salary to the employee by putting the petitioner on notice. The said order though has been assailed by the appellants in the present appeal, after hearing the learned Special Counsel appearing for the appellants, we are of the view that, the law declared by the Hon'ble Supreme Court in **White Washer's case** cited supra especially in Paragraph No.18 has made a mandate as to five such situations under which no recovery can be made and such kind of recovery if it is made, it is impermissible under law.*

7. When such a strong declaration has been made even though if it is a wrong calculation made by the employer against the employee and an undertaking has been received from him or undertaking has been imposed on him to recover at a later point of time, such an undertaking would be enforceable before the superannuation of the employee.

*8. Once the employee is superannuated, the second situation at paragraph No.18 of the **White Washer's case** would squarely apply to the case where the recovery from the retired employees, or the employees who are due to retire within one year of the order of recovery, cannot be recovered. In such case, recovery cannot be made against the employee for any alleged excess amount where* *the reason cannot be attributable on the employee.*

9. Therefore, we do not find any good reason to interfere with the order passed by the writ Court and the learned Judge has, in fact, fairly remitted the matter to the employer for the purpose of fixing the correct pay and using the said situation, it is open to the employer to fix the correct pay by issuing notice to the employee and based on which the last drawn pay can be calculated from which the pensionary benefits also can be revised accordingly, which would be beneficial from the point of view of the Government Exchequer also."

Therefore, we do not wish to interfere with the order passed by the writ Court and in view of the fair submission made by the learned counsel for the Appellant, we do not wish to entertain this Appeal.

7.In fine, this Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.K.,J.) (N.S.,J.)
01-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

sai

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