



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-03-2026

CORAM

THE HON'BLE MR JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.A.No.427 of 2026

and

C.M.P.No. 3917 of 2026

1. The District Health Officer,
District Health Office,
Erode -600 012.
2. The Block Medical Officer,
Primary Health Centre,
Siruvallur,
Erode District -638 104.

..Appellants

Vs

P.Selvan

..Respondent

PRAYER: Appeal filed under Clause XV of Letters Patent, to set aside the order dated 19.06.2025 passed in writ petition No.21766 of 2025 and allow the above writ appeal.

For Appellants : Mrs.M.Sneha, Special Counsel
for Health and Family Welfare Department

For Respondent : R.Ezhilarasan



J U D G M E N T

(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

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This intra-Court appeal has been directed against the order dated 19.06.2025 made in W.P.No.21766 of 2025.

2. The question that was posed before the writ Court was whether the recovery can be made on the alleged ground that excess payment has been made to the employee who had already retired on superannuation.

3. The case in hand is that, the employee retired on 31.07.2024 after rendering service for more than thirty years as he entered into service as Multi Purpose Health Assistant on 20.07.1989.

4. The said recovery sought to be made to an extent of Rs.2,88,476/- was questioned by the writ petitioner before the writ Court.

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.

10. In that view of the matter, the order passed by the writ Court is not liable to be interfered with, as a result of which, the Writ Appeal fails and accordingly, it is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (N.S.,J.)
26-03-2026

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

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