



WEB COPY



WA No. 492 of 2026

IN THE HIGH COURT of JUDICATURE AT MADRAS

DATED: 02-04-2026

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

and

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WA No. 492 of 2026

and

CMP No. 4845 of 2026

1. The District Health Officer
District Health Office,
Erode – 012.
2. The Block Medical Officer
Primary Health Centre,
Chithode, Erode District – 631 102.

..Appellant(s)

Vs

B. Ramesh
S/o. Balasubramanian,
No.100/6, ARG House,
Amaravathi Nagar,
Sri Mangalagiri Nagar,
Suriyam Pallaiyam,
Erode - 005.

..Respondent(s)

Prayer: Appeal filed under clause 15 of Letters Patent to set aside the order dated 19.06.2025 passed in Writ Petition No.21760 of 2025 and allow the above Writ Appeal.



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For Appellant(s):

Mr.M.Bindran,
Additional Government Pleader

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.21760 of 2025 dated 19.06.2025.

2.The Respondent/writ petitioner filed Writ Petition to call for the records relating to the Proceedings dated 23.08.2024 passed in R.No.1825/A6/2024 on the file of the 1st Appellant and consequently Proceedings dated 06.09.2024 passed in Na.Ka.No.588/A1/2024 on the file of the 2nd Appellant, quash the same and to direct the Appellants to refund a sum of Rs.4,66,309/- 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 21.07.1989 and got subsequent promotions. An order dated 06.09.2024 vide Na.Ka.No.588/A1/2024 was passed by the 2nd Appellant to



recover a sum of Rs.4,66,309/- from the retirement benefits of the Respondent/writ petitioner. The recovery was effected from 01.01.2006 on the ground that there was an excess pay since 01.01.2006.

4.Though there is no finding by the writ Court with regard to the undertaking given by the respondent/writ petitioner, it is the submission of the learned Government Advocate that whenever an increment was given to the respondent, he had given an undertaking that if any excess amount received by him, would be returned back to the Treassury.

5.The Writ Court taken into consideration the facts noted that the Appellants committed an error in making excess payment and now sought to recover the same. The Writ Court has rightly held that the mistake was on the part of the Appellants and therefore, the liability cannot be foisted on the writ petitioner for an error committed by them.

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



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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 Appellants, 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.)
02-04-2026

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

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To
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