



WP(MD). No.5987 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.04.2026

CORAM

THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

WP(MD). No.5987 of 2026
and WMP(MD)Nos.5016, 5019 and 6490 of 2026

A.Alphonse Leonard

... Petitioner

Vs.

1. State of Tamil Nadu,
Represented by its Principal Secretary,
School Education Department,
Secretariat, Chennai -9.

2. The Director of Elementary Education,
DPI Campus,
Chennai 6.

3. The District Educational Officer (Elementary),
Kovilpatti, Thoothukudi District..

4. The Block Educational Officer,
Vilathikulam Block,
Thoothukudi District..

5. The Principal Accountant General,
Office of the Accountant General (A and E),
361 Anna Salai, Teynampet,
Chennai 18.

6. The District Treasury Officer,
Treasury Office,
Thoothukudi.

7. The Sub Treasury Officer,
Vilathikulam,
Thoothukudi.

... Respondents



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PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of CERTIORARIFIED MANDAMUS to call for the records pertaining to the Impugned Order in Na.Ka.No.388/A1/2024 dated 04.11.2025 on the file of the Respondent No.4 and quash the same as illegal and consequently for a direction, directing the Respondent No.4 to 7 to disburse the death cum retirement gratuity, encashment of earned leave, unearned leave to the Petitioner within the time period stipulated by this Court.

For Petitioner : Mr.T.Aswin Raja Simman
For R1-R4, R6 : Mr.N.Satheesh Kumar
Additional Government Pleader
For R5 : M/s.Chamundi Bose
Standing Counsel

ORDER

This writ petition has been filed seeking a writ of certiorarified mandamus to call for the records pertaining to the impugned order in Na.Ka.No.388/A1/2024 dated 04.11.2025 issued by the fourth respondent and quash the same as illegal while seeking consequential direction to the respondents 4 to 7 to disburse the death cum retirement gratuity, encashment of earned leave, unearned leave to the petitioner within the time period stipulated by this Court.

2. Through the impugned proceedings, the fourth respondent re-fixed the grade pay of the petitioner at Rs.4700/- in the place of Rs.5400/- with effect from 19.09.2011 and also cancelled the incentive increment that was granted to the petitioner for having



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acquired B.Ed., qualification. The said incentive increment was awarded with effect from 01.06.2012. The petitioner availed the benefit of the said increment till the date of superannuation i.e 31.05.2024.

3. At the threshold, the learned counsel for the petitioner submitted that the petitioner is not insisting the relief sought in the writ petition insofar as cancellation of incentive increment is concerned, but only concerned with the recovery ordered through the impugned proceedings being the amounts paid to the petitioner from 01.06.2012 towards the incentive increment for acquiring B.Ed., qualification.

4. Insofar as the issue of recovery is concerned, the same is now governed by the decision of the Hon'ble Apex Court in the case of **State of Punjab & Ors vs. Rafiq Masih (White Washer)** reported in **(2015) 4 SCC 334**, wherein the Hon'ble Apex Court held as under:

“18. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement.

Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the



following few situations, wherein recoveries by the employers, would be impermissible in law:

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

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

(iii) Recovery from 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 employers right to recover.”

5. The case of the petitioner would straightaway fall under Class(ii) of paragraph 12 above as the petitioner has already retired from service on attaining the age of Superannuation on 31.05.2024 and the impugned proceeding came to be issued only after the superannuation of the petitioner. Therefore, the recovery that is contemplated being the excess payment paid towards the incentive



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increment from 01.06.2012 cannot be allowed. Therefore, the impugned proceedings ordering for recovery is liable to be quashed.

6. Insofar as re-fixing the grade pay of the petitioner at Rs. 4700 instead of Rs.5400/- is concerned, the said issue is squarely covered by an order passed by co-ordinate bench at Principal Seat of this Court in W.P.No.12275 of 2024 and batch dated 02.03.2026.

7. The learned counsel for the petitioner as well as the learned Additional Government Pleader agreed that the said issue can be disposed of in terms of the said order dated 02.03.2026. The operative portion of the above said order reads as under:

"85. In the result, all the writ petitions are disposed of with the following directions:-

i) The impugned order directing the fixation of the selection grade/special grade scale of pay at the first promotional level and 2nd promotional level is set aside to the extent that there shall be no recovery of amount, which has already been paid, from the petitioners;

ii) Insofar as the petitioners, who have retired from service is concerned, no amount shall be recovered on the basis of the impugned order from the retiral benefits/pensionary benefits of the petitioners with regard to the amount already paid;



iii) Insofar as the petitioners, who are still in service, no amount shall be recovered on the basis of the impugned order from the salary of the petitioners with regard to the amount already paid;

iv) In case any amount has already been recovered from any of the petitioners towards excess payment made in the selection grade scale, the same shall not be refunded to the petitioners and the respondents shall re-fix the selection grade scale of pay of the said petitioners after amendment to FR 22-B and, thereafter, upon computation, if any amount is due and payable to any of petitioners, the same shall be paid by the respondents forthwith;

v) Until FR 22-B is amended so as to include the directions given in G.O. Ms. No.63305/Pay Cell/2010-1 dated 8.11.2010, more particularly para 4 (i) of the said Government Order, no action shall be taken by the respondents to re-fix the scale of pay of the petitioners and similarly placed persons;

vi) Subject to amendment, if any, that may be made to FR 22-B, with reference to G.O. Ms. No.63305/Pay Cell/2020-1 dated 8.11.2020, the respondents are at liberty to revise the salary of the persons who are in service by re-fixing their scales of pay in the selection grade as also the pensionary benefits of the pensioners by re-fixing their scales of pay in selection grade in line with the amendments that may be made to FR 22-B for computing the admissible pension payable based on para 4 (i) of G.O. Ms. No.63305/Pay Cell/2010-1 dated 8.11.2010, which shall be applicable only prospectively and not retrospectively;

vii) Pursuant to the amendment, if any, made to FR 22-B,



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upon refixation of the scales of pay of the petitioners, and computing the revised pay that the petitioners who are in service would be entitled to and the revised monthly pension that the retired petitioners would be entitled to, it is made clear that the petitioners would also be entitled for selection grade benefit in the post of HM-MS upon completion of 10 years of service in the said post;

viii) The grant of selection grade scale of pay in the post of HM-MS shall be fixed after amendment to FR 22-B and after refixing the selection grade scale of pay of the petitioners in the erstwhile post of HM-PS and monetary benefit, if any payable, shall be computed and paid to petitioners from the date when they become eligible for such selection grade scale of pay, including arrears of pay.

ix) The Accountant General is directed to compute the pension in the scale of pay which the petitioners were drawing on the date of their retirement, if not computed in the said scale, and pay the arrears of pension on the said higher scale to the retired petitioners, if not already paid;"

8. In the light of above, the relief sought in connection with re-fixing the pay is concerned, the same shall stand disposed of in terms of the order passed in WP.No.12275 of 2024 and batch dated 02.03.2026. Insofar as the aspect of recovery is concerned, the recovery ordered through impugned proceeding shall stand quashed. It is made clear that cancellation of incentive increment through the impugned proceedings is concerned, the same is upheld.



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9. In fine, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

07.04.2026

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
CM



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To,

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Represented by its Principal Secretary,
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Secretariat, Chennai -9.

2. The Director of Elementary Education,
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Chennai 6.

3. The District Educational Officer (Elementary),
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