



W.A(MD)No.523 of 2026

WEB CODE BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2026

CORAM:

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
and
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**W.A(MD)No.523 of 2026
and
C.M.P(MD)No.4796 of 2026**

M.S.Radhamony Amma

... Appellant/Petitioner

vs.

1.The 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),
Kanyakumari,
Kanyakumari District.



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4.The Block Educational Officer,
Melpuram Block,
Kuzhithurai,
Kanyakumari 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,
Kanyakumari District.

7.The Assistant Treasury Officer,
Sub-Treasury,
Vilavancode,
Kanyakumari District.

... Respondents/Respondents

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent against the order dated 16.03.2026 made in W.P(MD)No.4521 of 2026 on the file of this Court.

For Appellant : Mr.T.Aswin Raja Simman

For Respondents : Mr.J.Ashok (R1 to R4, R6 & R7)
Additional Government Pleader



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JUDGMENT

[Judgment of the Court was made by N.SATHISH KUMAR, J.)

The present Writ Appeal has been preferred challenging the order of the learned Single Judge dated 16.03.2026 made in W.P(MD)No. 4521 of 2026, whereby the Writ Petition filed by the appellant/writ petitioner was dismissed. The said Writ Petition had been filed challenging the order passed by the fourth respondent dated 20.11.2025, cancelling the incentive increment granted to the writ petitioner in the year 2012 and also ordering for recovery of the excess incentive increment.

2.When the matter is taken up for hearing today, the learned counsel appearing for the appellant/writ petitioner submitted that it would suffice if the recovery alone is set aside. He further submitted that the appellant/writ petitioner has no objection to the fixation of incentive increment.



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3.Heard the learned counsel appearing on either side and perused the materials available on record.

4.Considering the above, we are of the view that the incentive increment had been paid from the year 2012, whereas the recovery has been sought to be made only in the year 2025, after a lapse of more than 12 years, which is impermissible in the eye of law.

5.It is well settled, as per the judgment of the Hon'ble Supreme Court in *State of Punjab and Others vs. Rafiq Masih (White Washer)* reported in *(2015) 4 SCC 334*, that recovery from employees is not permissible when the excess payment has been made for a period exceeding five years prior to the issuance of the recovery order. The said ratio is squarely applicable to the case of the writ petitioner. The writ petitioner seeks only the setting aside of the recovery amount. It is also brought to the notice of this Court that the writ petitioner has only one year of service remaining.

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6.In such view of the matter, we make it clear that recovery cannot be effected after such a long lapse of time, particularly at the verge of retirement of the employee, and that too when there is no fault on the part of the employee. The incentive increment had been fixed by the employer and not by the employee. Therefore, in the absence of any fault on the part of the employee, recovery cannot be effected after a long gap. Accordingly, recovery of excess payment alone stands quashed, and the fixation of the revised pay scale is confirmed.

7.In the result, this Writ Appeal is partly allowed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

[N.S.K.,J.] [P.B.B.,J.]
15.04.2026

NCC : Yes / No
Index : Yes / No
ps



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