



W.P.No.34908 of 2012

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Reserved on : 04.08.2026**

**Pronounced on : 07.08.2026**

**CORAM :**

**THE HONOURABLE MR. JUSTICE T.VINOD KUMAR**

**W.P.No.34908 of 2012**  
**and M.P.Nos.1 and 2 of 2012**

N.Pushparaj

... Petitioner

vs

1.The State of Tamilnadu  
Rep. By its Secretary  
Transport Department,  
Fort St.George,  
Chennai – 600 009.

2.The Tamil Nadu State Transport  
Corporation (Villupuram) Ltd.,  
Rep. By its Managing Director,  
Kancheepuram Region,  
Villupuram.

3.The Tamil Nadu State Transport  
Corporation (Villupuram) Ltd.  
Rep. By its General Manager,  
Kancheepuram Region, Kancheepuram.

4.The Deputy Manager (PF)



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Tamil Nadu State Transport Corporation  
(Villupuram) Ltd.,  
Kancheepuram Region, Kancheepuram

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, praying to call for the records relating to the order of the 3<sup>rd</sup> respondent dated 04.06.2012 in Ku.No.3603/PA 1/Tha A.Po.Ka (vizhu)/Kanchi/2008 and the Order of the 4<sup>th</sup> respondent in letter -Ka.No.101/Pension/ThaA.P.O.Ka (Vizhu) Ltd./Kanchi/1 dated 29.11.2012 and quash the same only in so far it relates to the petitioner and consequently direct the respondents to pay the difference of pay as that of the Section Officer from 04.02.2008 till 31.03.2008, to pay the difference of pension, leave liability and difference of commutation.

For Petitioner : Mr.M.Yuva Prasanna  
for Mr.K.Selvaraj

For Respondents : Mr.C.P.Goutham for R1  
Government Advocate  
Mr.M.Aswin, Standing officer for R2 and R3

### **ORDER**

Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the 1<sup>st</sup> respondent and the learned Standing Counsel appearing for the 2<sup>nd</sup> and 3<sup>rd</sup> respondents and perused the records.

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2. The petitioner, by the present writ petition has challenged the action of the 3<sup>rd</sup> respondent in issuing the proceedings dated 04.06.2012 and the subsequent proceedings of the 4<sup>th</sup> respondent dated 29.11.2012 informing the petitioner of the modification of pension calculated and the recovery of excess amount paid, in installments of Rs.2000/- per month from his pension payment from November 2012 onwards.

3. Briefly put, the case of the petitioner is that after joining the respondent Corporation as Junior Assistant, he was promoted to the post of Superintendent on 03.02.1996; that thereafter he was promoted as Senior Superintendent w.e.f 28.02.2002; that the 3<sup>rd</sup> respondent by order dated 08.07.2008 had promoted him as a Section Officer w.e.f 04.02.2008 and revised his scale of pay from Rs.5900-150-8900 to Rs.6800-200-10800; that the respondent Corporation had paid the scale of pay as applicable to Section Officer upto August 2008 including the arrears of pay from February 2008 to June 2008; that the respondents without giving any notice and without any order of reversion has reduced his pay to that of Senior Superintendent time scale of pay from September 2008.



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4. The petitioner further contended that though the first respondent by issuing G.O.Ms.No.142 dated 21.08.2008 revised the time scale of pay of the Technical Supervisors and Administrative Supervisors working in Tamil nadu State Transport Corporation, the revised time scale of pay is not applicable to the case of the petitioner, since, the petitioner had already been promoted to the post of Section Officer prior to issuance of the Government Order; that contrary to the provisions of the aforesaid Government Order, the 3<sup>rd</sup> respondent had reduced the scale pay of the petitioner from that of the Section Officer to Senior Superintendent from September 2008; that the first respondent by G.O.Ms.No.63, dated 05.02.2010 having categorically stated that the system prevailing for promotion of the Government servant will be valid for the Technical/Administration Superintendent cadre employees subject to availability of vacancy and possessing the qualification prescribed in the Government Service Rules; that the existing time bound promotion in the respondent Corporation would be withdrawn w.e.f 21.08.2008 i.e., from the date of issuance of G.O.No.142 dated 21.08.2008; the promotions given prior to issuance of Government Order are valid and could not be withdrawn by the respondent Corporation.

5. It is the further case of the petitioner that on the respondent



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Corporation seeking clarification from the first respondent on the above aspects, the first respondent by letter dated 31.08.2010 had categorically stated that the existing time bound promotion is withdrawn only w.e.f 21.08.2008; that the respondent Corporation did not follow G.O.Ms.No.142 dated 21.08.2008, G.O.Ms.No.63 dated 05.02.2010 and clarification issued vide letter dated 31.08.2010; that the first respondent by letter dated 29.07.2011 directed the Managing Directors of the Transport companies Corporation to follow the instructions issued in G.O.Ms.No.63 dated 05.02.2010; that the 3<sup>rd</sup> respondent on the basis of the letter of the first respondent issued proceedings dated 28.11.2011, whereby it was ordered that he was being promoted to the post of Section Officer w.e.f 07.02.2008 with monetary benefits being given from 29.07.2011; that the said order of the 3<sup>rd</sup> respondent is against the spirit, intent and purport of the Government Order vide G.O.Ms.No.63 dated 05.02.2010; that the 3<sup>rd</sup> respondent thereafter by order dated 04.06.2012 had modified its earlier order dated 28.11.2011 and ordered for grant of monetary benefit in the post of Section Officer from the date of retirement and directed the Assistant Manager to fix the pay and implement the monetary benefits from the date of retirement.



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6. The petitioner further contended that based on the aforesaid order of the 3<sup>rd</sup> respondent dated 04.06.2012, the pension being paid to him in time scale of pay of Section officer was stopped all of a sudden from July 2012, which was being paid to him from the date of his retirement i.e., from 30.06.2010; that the petitioner is entitled for the salary of Section Officer from 07.02.2008 on being promoted to the said post by the order of the respondent dated 08.07.2008 till the date of his retirement viz., 30.06.2010; and that he is entitled for pension from 01.07.2010 on the basis of scale of pay of Section Officer.

7. The petitioner contended that the 4<sup>th</sup> respondent thereafter by letter dated 31.10.2012 informed him, that since, he has been given promotion subsequent to retirement, and he having been paid scale of pay for Section Officer upto to the date of his retirement wrongly, the said pay of Section Officer could not be taken as basis for fixation of pension; and that the pay received by the petitioner as Section Officer is required to be repaid from pension in a sum of Rs.2000/- p.m.; that the action of the respondents in issuing the impugned proceedings seeking to effect recovery of alleged excess amount paid in installments of 2000/- p.m. from pension payable from November 2012 is wholly unsustainable and



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against the decisions of the Hon'ble Apex Court.

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8. Contending as above, the petitioner seeks for being granted the relief as sought for in the writ petition.

9. No counter affidavit on behalf of the respondent is filed.

10. The respondent however, contended that the petitioner had been wrongly granted the benefit of scale of pay w.e.f 07.02.2008; and that upon issuance of G.O.Ms.No.142 dated 21.08.2008, the respondent not only took steps to revert the petitioner from the post of Section Officer to the Senior Superintendent; and that on account of reversion, the respondents are entitled to recover the difference of pay paid in excess of the position to which, he is entitled to and thus, seeks for sustaining the impugned order.

11. I have taken note of the respective contentions urged.

12. At the outset, it is to be noted that the petitioner has been granted promotion to the post of Section Officer by the respondent themselves, on 04.02.2008 without petitioner seeking for being granted the said promotion by making any claim. Thus, the respondents cannot be permitted to allege that the petitioner had resorted to misrepresentation for being promoted to the post of



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Section Officer and for being placed in the pay scale of Rs.6800-200-10800.

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13. On the other hand, the respondents not only granted the promotion to the petitioner in February 2008, but also revised scale of pay to the petitioner on being promoted as Section Officer and paid arrears from 07.02.2008 to June, 2008. Though the respondents seek to justify their action for issuing the impugned proceedings seeking to recover the excess pay on the basis of G.O.Ms.No.142 dated 21.08.2008, as noted herein above, it is not the petitioner who had made claim for promotion or granting of pay scale of Section Officer, but it is the respondents who on their own volition had granted the said benefit to the petitioner.

14. That being so, even if the petitioner is reverted to the post of Senior Superintendent after issuance of G.O.Ms.No.142; after being promoted to the post of Section Officer, this Court is of the view that respondents cannot be allowed to recover any difference of pay paid to the petitioner on the ground that the said payment being excess payment made, on account of any misrepresentation by the petitioner.



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15. It is also to be noted that the posts of Section Officer as well as Senior Superintendent fall under Group-C employment. Thus, applying the law laid down by the Hon'ble Apex Court in the case of ***State of Punjab and others vs. Rafiq Masih (White Washer) -2014 SCC Online SC 552***, the respondents cannot be allowed to recover any amount paid to the petitioner on account of reversion of petitioner from the post of Section Officer to Senior Superintendent, more particularly, taking note of the fact that the petitioner having discharged duties as Section Officer. The principal laid down by the Hon'ble Apex Court in the Rafiq Masih case (*supra*) has been subsequently followed by the Hon'ble Apex Court in the case of ***High Court of Punjab and Haryana and others vs. Jagdev Singh – 2016 14 SCC 267***.

16. The aforesaid principal has been once again reiterated by the Hon'ble Apex Court in the case of ***Union of India and others vs. N.M.Raut and others - 2024 SCC Online SC 3873***.

17. Having regard to the settled position of law and taking note of the fact that the respondents having not initiated any action to recover the alleged excess payment made to the petitioner while in service, this Court is of the view



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that the respondents cannot be allowed to recover the alleged excess payment made from the pension being drawn by the petitioner two years after his retirement from service in the year 2010 by issuing impugned proceedings. This is also for the reason that on a employee returning from service on attaining the age of superannuation, the relationship of employer and employee stands terminated and in the event respondent are entitled to recover any excess payment, would have to avail civil remedies.

18. In view of the above, the impugned proceedings to the extent seeking to recover an amount of Rs.2000/- per month from the pension of the petitioner towards the alleged excess payment made to the petitioner cannot be sustained.

19. Accordingly, the writ petition is allowed and the impugned proceedings dated 04.06.2012 and 29.11.2012 are set aside. No costs. Consequently connected miscellaneous petitions are closed.

**07.08.2026**

msv

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No



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To

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State of Tamilnadu  
Transport Department,  
Fort St.George, Chennai – 600 009.

2.The Tamil Nadu State Transport  
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Tamil Nadu State Transport Corporation  
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Kancheepuram Region, Kancheepuram



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**T. VINOD KUMAR, J.**

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Pre-delivery order made in  
**W.P.No.34908 of 2012**  
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