



W.P.No.8920 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.8920 of 2023 and W.M.P. No.9061 of 2023

A.Murugesan

... Petitioner

Vs

- 1.The State of Tamil Nadu
represented by its Additional
Chief Secretary to the Government,
Home (Police) Department,
Fort St. George,
Chennai – 600 009.
- 2.The Director General of Police (L&O),
(Head of Police Force),
Office of the Director General of Police,
Mylapore,
Chennai 600 004.
- 3.The Commissioner of Police,
Chennai City,
Vepery,
Chennai – 7.
- 4.The Joint Commissioner of Police,
Administrative Officer,
Traffic Zone (North),
Vepery, Chennai.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order issued by the fourth respondent in Proceedings Na.Ka.No.P.F./Tr/530/14772/2018 T.Z Notification No.526/2018 dated 09.07.2018 and quash the same and to consequently direct the respondents 1 to 4 (i) to restore the pay of the petitioner and to accordingly refix his last drawn pay, (ii) to refix his pension and pay the arrears of pension and (iii) to repay the petitioner the recovered amount of Rs.99,857/-.

For Petitioner : Mr.V.Lakshmi Narayanan

For Respondents : Mr.P.Gurunathan,
Additional Government Pleader

ORDER

Heard Mr.V.Lakshmi Narayanan, learned counsel for the petitioner and Mr.P.Gurunathan, learned Additional Government Pleader for the respondents.

2.The writ petition has been filed, challenging the impugned order passed by the fourth respondent in Proceedings Na.Ka.No.P.F./Tr/530/14772/2018 T.Z Notification No.526/2018 dated 09.07.2018 and seeking for a direction to respondents 1 to 4 to restore the pay of the petitioner,



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refix his last drawn pay and pension, pay the arrears of pension and to repay him the recovered amount of Rs.99,857/-.

3.The Hon'ble Supreme Court in the case of State of Punjab and others vs. Rafiq Masih reported in (2015) 4 SCC 334 has held that the excess payment made owing to wrong fixation of pay scale by the Department, cannot be recovered from a pensioner and such recovery is impermissible in law.

4.In the instant case, admittedly, a wrong fixation has been made only by the respondent Department. Thus, the alleged recovery is impermissible in view of the principles laid down in the aforesaid decision.

5.Accordingly, the impugned Proceedings Na.Ka.No.P.F./Tr/530/14772/2018 T.Z Notification No.526/2018 dated 09.07.2018 issued by the fourth respondent is quashed.



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6.At this juncture, learned counsel for the petitioner would submit that pursuant to the impugned order, a sum of Rs.99,857/- has already been recovered from the petitioner.

7.Accordingly, there shall be a direction to the respondents to refund a sum of Rs.99,857/- together with interest at the rate of 6% per annum, within a period of four weeks from the date of receipt of a copy of this order.

8.With the above observation and direction, the writ petition stands allowed. No costs. Consequently, connected W.M.P. Stands closed.

20.06.2023

Index:Yes/No
Speaking order/Non-speaking order
vga



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To

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M.S.RAMESH,J.

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