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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 17.04.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P.(MD)No. 8491 of 2023**

**and**

**W.M.P(MD)No. 7834 of 2023**

S.Sivagurunathan

...

Petitioner

**Vs.**

1.The Secretary to Government,  
Finance (Pay Cell Department),  
Fort Saint George,  
Chennai – 600 009.

2. The District General of Police,  
Kamarajar Salai,  
Mylapore,  
Chennai – 600 004.

3. The Superintendent of Police,  
Tenkasi District, Tenkasi.

4. The Principal Accountant General (A&E),  
No.361, Anna Salai,  
Chennai – 600 018.

...

Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, to call for the records on the file of the 4<sup>th</sup> and 3<sup>rd</sup> respondents in connection with the impugned order passed by them, vide their proceedings in No.P04/1/10430782/ADK, dated 20.09.2022 and in C.No.B1/461/34480/2022, dated 14.12.2022 respectively and quash the both as illegal, arbitrary and consequently direct the respondents to re-fix my pay and pension on par with the petitioner batchmates and juniors and



thereby direct them reimburse the recovered amount of Rs.1,67,127/- in the light of the order passed by the Honourable Supreme Court State of Punjab and others Vs.Rafi Masih (White Washer) and others reorted in 2015 (4) Supreme Court Cases 334 and pay enhanced pension within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu  
For R-1 to 3 : Mr.G.Suriyananth,  
Additional Government Pleader  
For R-4 : Mr.P.Gunasekaran,  
Additional Central Government  
Standing Counsel

### **ORDER**

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. This writ petition is filed challenging the impugned order, dated 20.09.2022 and 14.12.2022, and revise the pension on par with his juniors, thereby directing the respondents to reimburse the recovered amount of Rs.1,67,127/-.

3. The contention of the petitioner is that, he is entitled to pensionary benefits as per the last drawn salary of Rs.60,900/- in the rank of Special Sub-Inspector of Police. However, through the impugned order, the respondents have fixed the last drawn salary of Rs.59,100/-.



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The respondents have cut the increment and has come to the conclusion that the excess amount of Rs.1,67,127/- is paid to the petitioner.

4. The contention of the petitioner is that he is entitled to the said increment since his batchmates namely, Subburaj and others were granted the same amount. The further contention of the petitioner is that the respondents have not issued any notice to the petitioner.

5. In view of the aforesaid reasons, this Court is inclined to pass the following orders:

(i)As far as the re-fixation is concerned, the respondents shall issue notice to the petitioner and pass orders, after giving opportunity to the petitioner.

(ii)As far as the recovery amount is concerned, if the outcome of the enquiry proceedings stated above indicates that the petitioner is entitled to, then the amount shall not be recovered.

(iii)If the outcome of the enquiry is that the petitioner is not entitled to, then the respondents shall recover 50% of the said amount and the 50% shall be waived.



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6. With these directions and observations, this Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No  
Internet : Yes  
ksa

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Tenkasi.
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**S.SRIMATHY, J**

**ksa**

**Order made in  
W.P.(MD)No.8491 of 2023**

**17.04.2023**