



WEB COPY



W.P.No.11428 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.11428 of 2024
and W.M.P.No.12537 of 2024

R.Magendiran

.. Petitioner

Versus

1. The Director General of Police,
Head of Police Force,
Tamil Nadu,
Chennai - 600 004.
 2. The Commissioner of Police,
Greater Chennai Police,
Vepery,
Chennai - 600 007.
 3. The Deputy Commissioner of Police,
Headquarters,
Greater Chennai Police,
Vepery,
Chennai - 600 007.
 4. The Accountant General (A & E),
Tamil Nadu,
Chennai - 600 018.
- .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
pleased to issue a Writ of Certiorarified Mandamus calling for the records



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on the file of 3rd respondent relating to order in Memo Na.Ka.No.62368/432/PF.2(1)/2023, dated 21.12.2023, to quash the same and to issue consequential directions to refund to the petitioner Rs.2,79,770/- with interest at 18% per annum together with incremental benefits.

For Petitioner : Mr.P.Kumaravel

For Respondents : Mr.P.Ganesan,
Government Advocate,
for RR-1 to 3

: Mrs.G.Vardini Karthik, for R4

ORDER

This Writ Petition is filed challenging the impugned order, dated 21.12.2023, in and by which, a sum of Rs.2,79,770/- which was paid in excess to the petitioner has been recovered from the petitioner. It is the contention of the petitioner that in view of the judgment of Hon'ble Supreme Court of India in *State of Punjab and Ors. vs. Rafiq Masih (White Washer) and Ors.*¹, in any event, recovery cannot be ordered.

2. When the matter came up for hearing, this Court passed over the matter for the learned Government Advocate to ascertain whether any show-

¹ (2015) 4 SCC 334



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cause notice was issued prior to passing of the impugned order. When the matter was taken up again in the afternoon session, the learned Government Advocate would pass on G.O.Ms.No.111, dated 09.08.2010 and would submit that the impugned order of recovery has been passed pursuant to the directions given by the fourth respondent, the Accountant General. Therefore, it is clear that no opportunity has been granted to the petitioner. The impugned order visits the petitioner with civil consequences inasmuch as it orders the recovery of sum of Rs.2,79,770/-. As such, it cannot be sustained.

3. In view thereof, this Writ Petition is allowed on the following terms

:-

(i) The impugned order, dated 21.12.2023 is set aside;

(ii) However, the respondents will be entitled to pass orders afresh by issuing a show-cause notice and affording an opportunity to the petitioner. It will be open for the petitioner to raise all the contentions before the respondents including the contention that no recovery can be made at this point of time;



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(iii) If the respondents choose to follow the said course, it would be open for them to do so within a period of 12 weeks from the date of receipt of a copy of this order, failing which, the respondents shall re-fix the pay and refund the amount to the petitioner;

(iv) There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

26.04.2024

Index : yes
Speaking order
Neutral Citation : no
grs

To

1. The Director General of Police,
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Chennai - 600 004.
2. The Commissioner of Police,
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Chennai - 600 007.
3. The Deputy Commissioner of Police,
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4. The Accountant General (A & E),
Tamil Nadu,
Chennai - 600 018.



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D.BHARATHA CHAKRAVARTHY, J.

grs

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