



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 13.02.2025

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THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.390 of 2024

C.Soundarapandiyan

.. Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. 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,
Traffic (South), Vepery,
Chennai.
- 5.The Joint Commissioner of Police,
Administrative Office,
West Zone, Tirumangalam,
Chennai.

.. Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the reocrds in pursuant to the impugned order issued by the 4th respondent in proceedings RC. No Tr / Payfix / 166 / 6092 / 2023 T.Z.O Notification No 237 / 2023 dated 30.03.2023 and quash the same and to consequently direct the respondents 1 to 5 to restore the pay of the petitioner and accordingly refix his last drawn pay and to repay to the petitioner the recovered amount of Rs 2,19,926/-.

For Petitioner .. Mr.V.Lakshminarayanan

For Respondents .. Mr.V.Nanmaran,
Additional Government Pleader

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to an order of the 4th respondent, the Joint Commissioner of Police, Chennai City, Vepery, Chennai in proceedings dated 30.03.2023 and quash the same and direct the 1st to 5th respondents to restore the pay of the petitioner and refix his last drawn pay and to repay the recovered amount of Rs.2,19,926/- which had been considered as an amount, which had been paid over and above the entitlement of the petitioner.



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2. In the affidavit filed in support of the petition, it had been stated that the petitioner had been initially appointed as Grade – II Police Constable in Tamil Nadu Police Department on 26.12.1985. Subsequently, he was promoted and as Grade – I Police Constable and further promoted as Special Sub-Inspector in the year 2010. He took voluntary retirement from service on 31.12.2022 after completing 37 years of service. It had been stated that in March 2023, the notice which is now impugned in the present writ petition had been issued to the petitioner, wherein, it had been claimed by the 4th respondent that a sum of Rs.2,19,926/- had been drawn and paid to the petitioner herein which is over and above his entitlement and that therefore, the said amount has to be deducted from his pensionary benefits. The amount was also straight away deducted from the pension benefits. It is under those circumstances that the writ petition has been filed seeking interference with that particular order of the 4th respondent and for further directions to repay the amount which had been deducted from the petitioner herein.



3. In the impugned order, it had been further stated that on verifying the Service Register, it had been found that the fixation of pay as Grade – II Police Constable and Grade – II Police Constable had been wrongly calculated insofar as the petitioner is concerned and that therefore, the petitioner had been paid excess salary. It had been contended that the last drawn of the petitioner should have been only Rs.59,100/- whereas he had drawn a sum of Rs.60,900/-. This discrepancy according to the respondents had arisen owing to wrong fixation of pay while the petitioner was functioning as Grade-I and Grade-II Police Constable. It was under those circumstances that recovery was directed and recovery was also effected.

4. The learned counsel for the petitioner, however, placed reliance on the judgment of the Hon'ble Supreme Court reported in **(2015) 4 SCC 334, State of Punjab and Others V. Rafiq Masih (White Washer) and Others**, wherein while examining the earlier orders of the Hon'ble Supreme Court which had been issued under Article 142 of the Constitution of India, it had been found that there were several instances wherein recovery of pay was directed post retirement of Group C and D employees leading to financial difficulties enured by them. It is under those circumstances, that in the



aforementioned case, the Hon'ble Supreme Court had issued guidelines stating that primarily the difficulties faced by the employees should also be considered and further for a block period of five years alone, could recovery be effected. It had been stated that no recovery should be effected without issuing show cause notice.

5. On the basis of that judgment, the Government had also passed G.O.Ms.No.286 Finance Department dated 28.08.2018 adhering to the guidelines of the Hon'ble Supreme Court. But however, even though the said Government order had been passed, a perusal of the records and the papers filed in the present case show that a show cause notice had not been issued to the petitioner, but straight away an order of recovery had been passed and there was also recovery. That particular order which is impugned in this writ petition, therefore flies in the face of both the Government order of the State and also on the judgment of the Hon'ble Supreme Court.

6. In view of that particular fact, the impugned order is directed to be considered as show cause notice to the petitioner herein, who may raise objections including the objections that he was a Group-C employee and



that the revision of pay was effected more than five years back and that therefore, it fell within the exception clause as provided in the guidelines of the **White Washer** case. The petitioner may also raise the ground that, after about 20 years recovery had been effected. The petitioner may raise all these grounds and answer the impugned order which is now to be considered as a show cause notice.

7.The petitioner may forward a representation / explanation within a period of four weeks from the date of receipt of a copy of this order and thereafter, the respondents may pass orders afresh based on the representation given by the petitioner and also based on the guidelines of the **White Washer** case and also on the basis of G.O.Ms.No.286 Finance Department dated 28.08.2018.

8.With the above reasonings, this Writ Petition stands disposed of.

No costs.

13.02.2025

Index:Yes/No
Internet:Yes/No
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C.V.KARTHIKEYAN,J.

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