



WEB COPY



WP No. 10986 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2025

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THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

WP No. 10986 of 2024

AND

WMP NO. 12069 OF 2024

R.Selvaraj
S/o.Ramasamy
No.703 Vinayagar Kovil Street,
Lali Road, Coimbatore-3.

Petitioner(s)

Vs

1. The Director General Of Police
Kamarajar Salai,
Mylapore Chennai 600 004

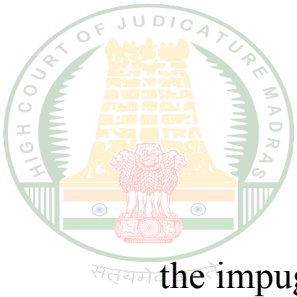
2.The Commissioner Of Police
Coimbatore City, Coimbatore

3.The Accountant General/
Branch Officer
(Accounts & Entitlements),
No. 361 Anna Salai, Teynampet
Chennai 18.

Respondent(s)

PRAYER

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records pertaining to



WP No. 10986 of 2024

the impugned order issued by the 3rd respondent in No.AG(A and E) PEN PO5/ 10532419 / 2/ R0532419 /235 dated 24.11.2022 and the consequential impugned order issued by the 2nd respondent in Na.Ka.No. P3/ 000711/ 2023 dated 13.03.2023 and the consequential impugned order issued by the 2nd respondent in Na.Ka.No.Y3/19775/2023 dated 03.07.2023 and the consequential impugned order issued by the 2nd respondent in Na.Ka.No.Y3/33270/ 2023 dated 11.08.2023 and the consequential impugned order issued by the 2nd respondent in Na.Ka.No.Y3/ 48243/ 2023 dated 29.11.2023 and quash the same as illegal and consequently direct the respondents to refund/ reimburse the recovery amount a sum of Rs.1,77,346/- (Rupees one lakh seventy seven thousand three hundred and forty six only) to the petitioner's account within the time frame that may be fixed by this Hon'ble court.

For Petitioner(s): M/s. A.Rajaram

For Respondent(s): Mr.R.U.Dinesh Raj Kumar

A.G.P., For R1 To R4

M/s. G.Vardini Karthik For R5

ORDER

This Writ Petition has been filed to to call for the records pertaining to the impugned order issued by the 3rd respondent in No.AG(A and E) PEN PO5/ 10532419 / 2/ R0532419 /235 dated 24.11.2022 and the consequential impugned order issued by the 2nd respondent in Na.Ka.No. P3/ 000711/ 2023 dated 13.03.2023 and the consequential impugned order issued by the 2nd respondent in Na.Ka.No.Y3/19775/2023 dated 03.07.2023 and the consequential impugned order issued by the 2nd respondent in Na.Ka.No.Y3/33270/ 2023 dated 11.08.2023 and the consequential impugned

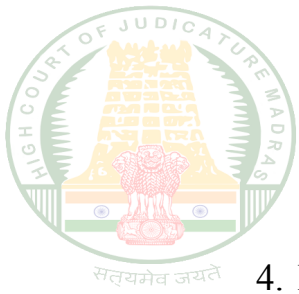


WP No. 10986 of 2024

order issued by the 2nd respondent in Na.Ka.No.Y3/ 48243/ 2023 dated 29.11.2023 and quash the same as illegal and consequently direct the respondents to refund/ reimburse the recovery amount a sum of Rs.1,77,346/- (Rupees one lakh seventy seven thousand three hundred and forty six only) to the petitioner's account within the time frame that may be fixed by this Honble Court.

2. Heard Mr.A.Rajaram, learned counsel for the petitioner, Mr.R.U.Dinesh Raj Kumar, learned Additional Government Pleader appearing for the respondents 1 to 4 and Ms.G.Vardhini Karthik, learned counsel for the 5th respondent.

3. The learned counsel for the petitioner would submit that the petitioner retired from service during 2022. After the retirement on 03.07.2023, the impugned recovery order passed directing to deduct a sum of Rs.1,77,346/- from the Gratuity amount. The learned counsel would submit that the alleged excess amount beyond the entitlement of the petitioner was ordered to be recovered since 1998 onwards. If such recovery is permitted, it would cause great hardship against the petitioner and in violation of the ***White Washer's case [State of Punjab and Ors Vs. Rafiq Masih (White Washer) etc., reported in AIR 2015 SC 696]***.



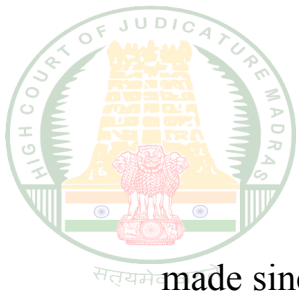
WP No. 10986 of 2024

WEB COPY

4. Per contra The learned Additional Government Pleader would submit that the *White Washer's* case [cited supra] was subsequently, distinguished by the learned Single Judge in WP.No.2863 of 2023 [*A.Jeyamani Vs. The State of Tamil Nadu and 3 others*] in similar set of facts. Apart from that, he has also relied upon the G.O.Ms.No.286 dated 28.08.2018. It is the further submission of the learned Additional Government Pleader that whenever the excess payment was fixed, the employee has to give an undertaking and therefore, the Government is competent to recover the same.

5. I have given my anxious consideration to either side submissions.

6. Though the learned Additional Government Pleader would vehemently contend that the recovery order is to be sustained, it is an admitted fact that the excess pay was not paid upon any of the misrepresentation of the petitioner or any false statement. Even the respondent came to know about the wrong fixation of pay only after the auditing department has raised an objection. Though the learned counsel relied upon the learned Single Judge's judgment in *Jeyamani's* case [cited supra], that is the case where the delinquent received the excess payment knowing fully well that he is receiving such an amount excess to his entitlement. But, in the case in hand, no such stand taken by the respondent. More pertinently, the impugned recovery order was issued subsequent to the retirement. Apart from that, the alleged excess payment was



WP No. 10986 of 2024

WEB COPY

made since 1999 almost more than 25 years. Therefore, after period of 25 years, if any recovery order passed against the petitioner, it would definitely infringe upon his fundamental right to life and apart from that, it would become very harsh. Therefore, as rightly contended by the learned counsel for the petitioner, the facts involved in the present case squarely comes within the ambit of the *White washer's* case. Hence, this Court finds merit in this writ petition.

7. In the result, this writ petition is allowed and the impugned order to the extent of recovery is hereby set aside. However, this Court makes it clear that the re-fixation made by the respondents is confirmed. No costs. Consequently, connected WMP is also closed.

23-06-2025

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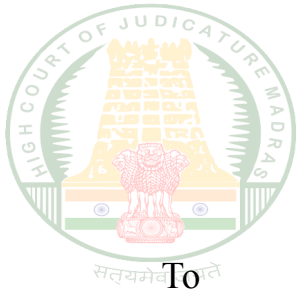
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Index: Yes/No

Speaking order

Internet: Yes

Neutral Citation: Yes/No



WP No. 10986 of 2024

To

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1. The Director General Of Police

Kamarajar Salai, Mylapore Chennai 04

2. The Commissioner Of Police

Coimbatore City, Coimbatore

3. The Superintendent Of Police

Special Branch Cid, Chennai 04

4. The Deputy Superintendent Of Police

Special Branch Cid, Chennai 04

5. The Accountant General/ Branch
Officer

(accounts And Entitlements),

No. 361 Anna Salai, Teynampet

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WEB COPY



WP No. 10986 of 2024

C.KUMARAPPAN J.

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**WP No. 10986 of 2024
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