



W.P.No.10907 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.10907 of 2019

K.Saminathan

... Petitioner

vs

1. The Superintendent of Police,
Economic Offence Wing – II,
Guindy, SIPCOT,
Chennai – 600 032.

2. The Accounts Officer/Pen 5
O/o. The Principal Accountant General
(Accounts & Entitlements) Tamil Nadu,
381, Anna Salai,
Chennai – 600 018.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue Writ of Cetrriorarified Mandamus, to call for the records of the proceedings of the second respondent in Pen/5/III/10515599/PA/14-15/ADK dated 01.08.2014 and the proceedings of the first respondent in Rc.No.A6/EOW/4429/2014 dated 12.02.2015



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and quash the same and consequently direct the respondents herein to repay the recovered amount of a sum of Rs.99,465/- (Rupees Ninety Nine Thousand and Four Hundred and Sixty Five Only) along with interest as per G.O.Ms.No.497 Finance (Pay Cell) Department dated 15.09.1998.

For Petitioners : Mr.K.Thenrajan

For Respondents : Mrs.V.Yamunadevi
Special Government Pleader for R1

: Mr.C.Muralikrishnan
Standing Counsel for R2

ORDER

Heard the learned counsel for the petitioner and the learned Special Government Pleader for the first respondent and the learned Standing Counsel for the second respondent and perused the records.

2. The case of the petitioner in brief is that, he had joined in the services of the first respondent as Grade-II Constable on 04.02.1977 and his services were



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upgraded periodically; that he was permitted to retire on 30.06.2014; that the respondent, by proceedings dated 06.11.2014, is seeking to recover the sanctioned amount of DCRG and other benefits mentioned therein, claiming that the payment of said amount was made to the petitioner since 1998 in excess of his eligibility which action of the respondent, it is contended as highly illegal and contrary to law as laid down by the Hon'ble Apex Court in the case of *State of Punjab and others V. Rafiq Masih(White Washers) and others* reported in *2015 (4) SCC 334*.

3. On behalf of the petitioner, it is also contended that since, the excess payment was not made on account of any misrepresentation by the petitioner, the respondents are to be restrained from recovering the said payment, after a lapse of such a long time.

4. On behalf of the respondents, counter affidavit has been filed.



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5. The second respondent, by the counter affidavit, had stated that the petitioner was granted personal pay (PP), which was directed to be paid at 5% of basic pay to all categories of staff under G.O.664 dated 24.08.1992 and that G.O.497, Finance (PC) dated 15.09.1998; that 5% personal pay is admissible only to those who are holding the post as on 01.09.1998; and that since, the petitioner was working as Police Constable Grade – I and had moved over from the scale of 555-970 to 950-1500, the petitioner is not entitled for the personal pay; and thus, recovery is sought to be made under the impugned proceedings.

6. I have taken note of the respective contentions as urged.

7. The issue of recovery of excess payment in respect of employee falling



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under C and D category, is settled by a decision of the Hon'ble Apex Court in the

case of ***State of Punjab and others V. Rafiq Masih(White Washers) and others***

reported in ***2015 (4) SCC 334***.

8. The aforesaid principle has been reiterated by the Hon'ble Apex Court against in the case of ***High Court of Punjab & Haryana Vs. Jagdev Singh***, reported in ***2016 (14) SCC 267***.

9. Following the aforesaid decision, this Court in W.P.No.25149 of 2019 and W.P.No.30344 of 2019 had held that, if any excess amount paid to the employee without any fault of the employee, can only be recovered in the circumstances as stated in the decision of the Hon'ble Apex Court in the case of ***State of Punjab and others V. Rafiq Masih(White Washers) and others (supra)***

10. Since, in the facts of the present case, the petitioner is a category 'C'



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employee and having retired in the year 2014 and also admittedly, having not made any misrepresentation with regard to the alleged payment of personal pay during the period 1998 onwards, this Court is of the view that the respondent/Authority cannot recover the alleged excess payment, if any made.

Accordingly, this Writ Petition is allowed. The impugned proceedings is set aside. No order as to costs.

18.11.2025

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

dh

To

1. The Superintendent of Police,
Economic Offence Wing – II,
Guindy, SIPCOT,
Chennai – 600 032.

2. The Accounts Officer/Pen 5

6/9



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O/o. The Principal Accountant General
(Accounts & Entitlements) Tamil Nadu,
381, Anna Salai,
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T. VINOD KUMAR, J.

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