



W.P.No.16030 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.16030 of 2025
and W.M.P.No.18138 of 2025

Devarajan

... Petitioner

Vs.

- 1.The State of Tamil Nadu
Represented by its Additional
Chief Secretary to the Government
Home (Police) Department,
Fort St. George,
Chennai – 600009.
- 2.The Principal Accountant General (A&E),
Tamil Nadu,
Teynampet,
Chennai.
- 3.The Director General of Police (L&O),
(Head of Police Force)
Office of the Director General of Police,
Mylapore,
Chennai 600004.
- 4.The Commissioner of Police,
Vepery,
Chennai.



W.P.No.16030 of 2025

5. The Joint Commissioner of Police,
Traffic Zone (South),
Chennai.

... Respondents

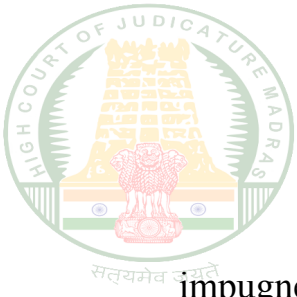
Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order issued by the 5th respondent in proceedings Rc.No.Tr./Payfix/409/12290/2024 T.Z.O.No.634/2024 dated 30.08.2024 and quash the same and to consequently direct the respondents 1 to 5(i) to restore the pay of the petitioner and accordingly refix his last drawn pay, (ii) to refix his pension and pay the arrears of pension and (iii) to repay to the petitioner the recovered amount of Rs.3,22,982/-.

For Petitioner	: Mr.V.Lakshminarayan
For R1, R3 and R5	: Mr.R.U.Dinesh Raj Kumar Additional Government Pleader
For R2	: Mr.V.Vijay Shankar

ORDER

By consent of both the learned counsel for the parties, the Writ Petition is taken up for final disposal, at the admission stage itself.

2. The instant writ petition has been filed with a prayer for issuing a Certiorarified Mandamus, to call for the records in pursuant to the

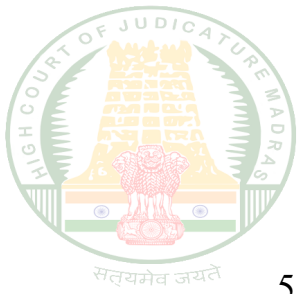


W.P.No.16030 of 2025

impugned order issued by the 5th respondent in proceedings Rc.No.Tr./Payfix/409/12290/2024 T.Z.O.No.634/2024 dated 30.08.2024 and quash the same and consequently, to direct the respondents 1 to 5, (i) to restore the pay of the petitioner and accordingly refix his last drawn pay, (ii) to refix his pension and pay the arrears of pension and (iii) to repay to the petitioner the recovered amount of Rs.3,22,982/-.

3. Heard the learned counsel for both sides and perused the materials available on record.

4. The learned counsel for the petitioner would submit that the petitioner joined in the Police Force during 1986 and after having various promotions, he retired from service on 30.06.2024 as Sub Inspector of Police. It is the submission of the petitioner that after his retirement, the impugned order dated 30.08.2024 had been passed, as if there was an excess pay since 2015 and directed to recover a sum of Rs.3,22,982/- and subsequently, the respondents have recovered the amount from his terminal benefits.

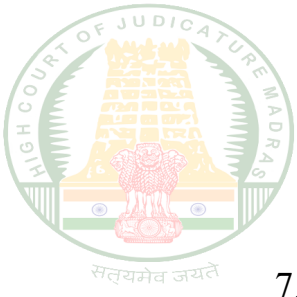


W.P.No.16030 of 2025

WEB COPY

5. It is the submission of the petitioner that the recovery subsequent to his retirement that too upon the alleged excess payment for more than five years is contrary to law and this position has been settled by the judgment of the Hon'ble Supreme Court in ***State of Punjab and others vs. Rafiq Masih (White Washer) and others***, reported in ***(2015) 4 SCC 334***. However, the learned counsel for the petitioner would fairly submit that he would agree for refixation of pay as the same would come within the expert domain.

6. However, the learned Additional Government Pleader appearing for the respondents 1, 3 and 5 would strongly object the contention of the petitioner and would submit that the refixation had happened only upon the application of the petitioner on account of certain pay anomaly and that when the pay was fixed, the petitioner had given an undertaking to refund the excess pay as and when the same was found. It is the funder submission of the Additional Government Pleader that the petitioner comes within the B-Grade employee at the time of retirement. Therefore, the ***Rafiq Masih (White Washer)*** case is not applicable to the facts of this case. Hence, prayed to dismiss the writ petition.



W.P.No.16030 of 2025

WEB COPY

7. I have given my anxious consideration to the submissions made on either side.

8. Before we delve into the recovery aspect, this Court would like to record the no objection given by the petitioner as to the refixation of pay. Therefore, his objection is only against the recovery.

9. Coming to the recovery, as rightly pointed out by the learned counsel for the petitioner that the petitioner retired on 30.06.2024 and only after his retirement, the impugned had been passed. Though it was contended by the learned Additional Government Pleader that the pay was refixed upon the application of the petitioner, it is not their case in the counter statement that it was fixed on the misrepresentation. However, the pay fixation was wrongly made by the Department, which came to their knowledge only when the pension proposal of the petitioner was forwarded to the Accountant General. Therefore, as laid down in the judgment of the Hon'ble Supreme Court in *State of Punjab and others vs. Rafiq Masih (White Washer) and others*, reported in *(2015) 4 SCC 334*, when there is no misrepresentation or false representation, then the recovery that too commencing from more than five years after his retirement is impermissible.



W.P.No.16030 of 2025

WEB COPY

10. In such view of the matter, this Court finds merits in the case of the petitioner. Hence, the impugned order dated 30.08.2024 is quashed to the extent of recovery. However, the pay fixation is confirmed.

11. At this juncture, the learned counsel for the petitioner would submit that the respondents have already recovered a sum of Rs.3,22,982/- from the terminal benefits and if such recovery was already effected, the respondents are directed to refund the said amount to the petitioner, without any interest, within a period of three months from the date of receipt of copy of this order.

12. With the above direction, the Writ Petition is partly allowed to the extent of recovery alone. No costs. Consequently, the connected writ miscellaneous petition is closed.

26.06.2025

dm

Index : Yes/No

Speaking order

Neutral Citation : Yes/No



W.P.No.16030 of 2025

To

WEB COPY

- 1.The Additional Chief Secretary to the Government
State of Tamil Nadu
Home (Police) Department,
Fort St. George,
Chennai – 600009.
- 2.The Principal Accountant General (A&E),
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W.P.No.16030 of 2025

C.KUMARAPPAN, J.

dm

W.P.No.16030 of 2025

26.06.2025