IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-07-2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

WP No. 23967 of 2025
and
WMP No. 26952 of 2025

C.Seesar

Petitioner(s)

Vs

1.The Commissioner Of Police
O/o.The Commissioner Of Police,
No.123, EVK Sampath Road, Vepery,
Park Town, Chennai-600 007

2.The Joint Commissioner Of Police
O/o.The Joint Commissioner Of Police,
East Zone Office, Egmore,
Chennai-00 008

3.The Administrative Officer
(Accounts)
O/o.The Joint Commissioner Of Police,
East Zone Office, Egmore,
Chennai-600 008

Respondent(s)

PRAYER

calling for the records of proceedings of the second respondent issued in EZO No.897/2023 over payment of Recovery order in respect of Tr.C.Seesar S1(10031) dated 08.05.2025 and quash the same with the consequential direction, directing the respondents to refund the recovery amount of Rs.2,52,954/- with interest at the rate of 6% to the petitioner and as per orders of the High Court made in W.P.No.8920 of 2023 dated 20.06.2023.

For Petitioner(s):	Mr.V.Ravikumar
For Respondent(s):	Mr.N.Naveen Kumar Govt.Advocate

ORDER

The instant writ petition has been filed challenging the recovery order dated 08.05.2025 and seeking a consequential direction to the respondents to refund the recovered amount of Rs.2,52,954/- with interest at the rate of 6% to the petitioner.

2. The learned counsel for the petitioner would submit that the petitioner

is a retired Special Sub-Inspector of Police, who retired from service on 31.05.2023. It is the further submission of the petitioner that after a period of two years, the impugned order dated 08.05.2025 was passed, ordering recovery of a sum of Rs.2,52,945/- on the ground that there was an excess payment beyond the petitioner's entitlement from 01.01.1996.

3. The learned counsel for the petitioner further submits that there was no misrepresentation on the part of the petitioner and that the payments were made based on the administrative orders and if any recovery after his retirement is made, would directly affect his Right to Life. Hence, the petitioner prayed to interfere with the same.

4. Per contra, the learned Government Advocate appearing on behalf of the respondents would strongly object to the above contentions and submitted that the impugned order dated 08.05.2025 was issued based on the recommendation of the Accountant General vide his letter dated 07.07.2023. It is further submitted that the petitioner had requested a revision of pay due to an

anomaly in the year 1996, which was wrongly fixed at higher level and resulting in payment of excess amount beyond the petitioner's entitlement. Since the payment was made based on the petitioner's request, he cannot now turn around and claim that he is not liable for the recovery. Therefore, the present writ petition is liable to be dismissed.

5. I have given my anxious consideration to the submissions made by both sides.

6. According to the facts, the date of retirement on 31.05.2023 is admitted and impugned order was issued after retirement, mainly after two years.

7. Though it is the contention of the respondents that impugned recovery order was issued based on the Accountant General's order dated 07.07.2023, it is not their case that such excess amount was paid solely due to the misrepresentation of the petitioner.

8. While looking into the impugned order, it is evident that the recovery was ordered to be effected from 01.01.1996, which exceeds the 5-year period from the date of retirement of the petitioner. A Similar issue has already been dealt with by the Hon'ble Supreme Court of India in the case of ***State of Punjab and Other vs. Rafiq Masih (White Washers) and Others***[1]**.** The Apex Court has laid down guidelines on where recovery can be effected. In this connection it is appropriate to refer paragraph 18 of the said judgment:

> "***18.*** *It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:*
>
> *(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).*

1. 2015 (4) SCC 334

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

9. As observed herein above, the excess payment was made solely due to administrative reasons and not due to any misrepresentation by the petitioner and that the amount has been paid since 1996, which is beyond the period of 5 years. Therefore, at this stage, especially after retirement, permitting any

recovery would directly affect the petitioner's Right to Life, as rightly contended by the learned counsel for the petitioner.

10. Hence, this Court finds no justification in the issuance of impugned order issued by the 2nd respondent in EZO No.897/2023 dated 08.05.2025 and the same is quashed. Simultaneously, the learned counsel for the petitioner fairly submits that the petitioner has no grievances regarding the pay fixation.

11. At this juncture, it is brought to the attention of this Court by the learned counsel for the petitioner that the amount has already been recovered by the respondents. If such amount has been recovered by the respondents, they are directed to refund the same within a period of three months from the date of receipt of a copy of this order.

12. In result, this Writ Petition stands allowed in the above terms. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

03-07-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

Jeni

To

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2.The Joint Commissioner Of Police
O/o.The Joint Commissioner Of Police,
East Zone Office, Egmore, Chennai-
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O/o.The Joint Commissioner Of Police,
East Zone Office, Egmore, Chennai-
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C.KUMARAPPAN J.

Jeni

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