



WEB COPY



W.P.No.23381 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

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and

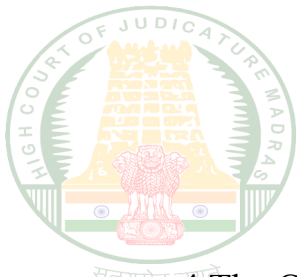
W.M.P.No.26258 of 2025

S.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.



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4.The Commissioner of Police,
Vepery,
Chennai.

5.The Deputy Commissioner of Police,
Modern Police Control Room,
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 NA.KA.No.9046(D) SA.F.2(1)/2024 G.C.P.No.1157/2024 dated 24.04.2024 and quash the same and to consequently direct the respondents 1 to 5(i) to restore the pay of the petitioner and to 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.3,17,642/-.

For Petitioner : Mr.V.Lakshminarayanan

For R1, R3 to R5 : Mr.N.Naveenkumar
Government Advocate

For R2 : Mr.P.Mano Rajan
Standing Counsel



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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 impugned order issued by the 5th respondent in proceedings NA.KA.No.9046(D) SA.F.2(1)/2024 G.C.P.No.1157/2024 dated 24.04.2024 and quash the same and to consequently direct the respondents 1 to 5(i) to restore the pay of the petitioner and to 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.3,17,642/-.

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 was appointed as Grade II Police Constable in the Tamil Nadu



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Police Department on 17.03.1986 and after completing 39 years of service and on attaining the age of superannuation, he retired from service on 31.03.2024 as Sub-Inspector of Police. After his retirement, vide impugned order dated 24.04.2024, a sum of Rs.3,17,642/- was ordered to be recovered by the 5th respondent, as if there was an excess payment beyond the entitlement of the petitioner since 1996 to 2024. It is the submission of the petitioner that the pay fixation was made by the Administration and that there is no *mala fide* on the part of the petitioner. However, the learned counsel for the petitioner would fairly concede that the petitioner do not have any objection in respect of the re-fixation of pay.

5. At this juncture, the learned Government Advocate appearing for the respondents 1 and 3 to 5 would strongly object the contention of the petitioner and would submit that whenever any re-fixation is made, the petitioner undertook to repay as and when, if any excess payment was subsequently found and apart from that the very impugned notice was issued based upon the Audit Report given by the Accountant General, therefore, the petitioner cannot have grievance.



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

7. Admittedly, the excess payment was made since 1996 to 2024 by the Administration and there is no *mala fideness* or misrepresentation by the petitioner and apart from that, the impugned notice dated 24.04.2024 was issued subsequent to the retirement of the petitioner that too for the recovery of the amount beyond the period of five years, which is contrary to the dictum 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***. Hence, this Court has find force in the submission of the learned counsel for the petitioner. Therefore, the impugned order issued by the 5th respondent in NA.KA.No.9046(D) SA.F.2(1)/2024 G.C.P.No.1157/2024, dated 24.04.2024 is quashed to the extent of recovery. However, this Court made it clear that the pay refixation made by the respondents is confirmed.

8. At this juncture, the learned counsel for the petitioner would submit that the respondents already recovered the sum of Rs.3,17,642/-. Hence, the



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respondents are directed to refund the same, without any interest, within a period of three months from the date of receipt of copy of this order.

9. With the above direction, the Writ Petition is partly allowed. No costs. Consequently, the connected writ miscellaneous petition is closed.

30.06.2025
(1/2)

Index : Yes/No
Speaking order /Non Speaking Order
Neutral Citation : Yes/No
dm



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To
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- 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),
Tamil Nadu,
Teynampet,
Chennai.
- 3.The Director General of Police (L&O),
(Head of Police Force)
Office of the Director General of Police,
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C.KUMARAPPAN, J.

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