



W.P.No.25122 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.25122 of 2025
and W.M.P.No.28301 of 2025

S.Saravanan

... Petitioner

Vs.

- 1.The State of Tamil Nadu
Represented by its Principal 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,
Avadi Commissionerate,
Chennai.
- 5.The Joint Commissioner of Police,
East Zone, Chennai.



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6.The Joint Commissioner of Police
West Zone, Chennai

7.The Additional Commissioner of Police
Headquarters & Traffic,
Avadi Police Commissionerate

... 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 4th respondent in proceeding NA.KA.No.SA.F.S.643/36711/2025 dated 20.03.2025 and quash the same and consequently direct the 1st to 7th respondent 1) the request of the petitioner to restore one increment to stepping up of his last drawn pay on part with his junior Mr.G.Nehru S.I. No.11064 and 2) the request of the petitioner to repay the balance recovered amount of Rs.2,50,543/-.

For Petitioner : Mr.V.Lakshmi Narayanan

For R1, R3 to R7 : Mr.G.Nanmaran
Special Government Pleader

For R2 : Mr.A.N.R.Jayaprathap
Standing Counsel

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.



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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 4th respondent in proceeding NA.KA.No.SA.F.S.643/36711/2025 dated 20.03.2025 and quash the same and consequently direct the 1st to 7th respondent 1) the request of the petitioner to restore one increment to stepping up of his last drawn pay on part with his junior Mr.G.Nehru S.I. No.11064 and 2) the request of the petitioner to repay the balance recovered amount of Rs.2,50,543/-.

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

3. Though the petitioner prayed to quash the impugned order dated 20.03.2025 passed by the 4th respondent for recovery of a sum of Rs.2,50,543/- as well as restore the one increment to stepping up of his last drawn pay on par with his junior, the learned counsel for the petitioner is restricted his prayer only in respect of recovery alone. Before he proceed with the argument, he would fairly submit that he will not challenge the refixation of the pay as it comes within the experts domain. His only

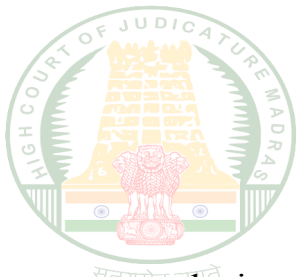


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grievance is that he joined in the Respondents-Police on 20.02.1986 as Grade II Constable and after rendering 38 years of service and on attaining the age of superannuation, he retired from service on 31.07.2023. However, there was a recovery order passed against him on 20.10.2023 and 22.01.2024 and again on 16.02.2024. Thereafter, the petitioner preferred a writ petition in W.P.No.19424 of 2024 to consider his representation. Thereafter, this Court vide order dated 22.07.2024 directed the respondents therein to consider the petitioner's representation. Thereafter, the 4th respondent has passed impugned order by and in which out of total recovery of sum of Rs.3,05,179/-, the 4th respondent has considered to an extent of only Rs.1,41,907/- and sustain the recovery of Rs.2,50,543/-.

4. It is the submission of the petitioner that these recovery orders received subsequent to the retirement of the petitioner and apart from that, the alleged excess pay was calculated from 1998 onwards which is beyond the period of five years. According to the petitioner, the issue involved in this case has already been dealt with in the judgment of the Hon'ble Supreme Court in *State of Punjab and others vs. Rafiq Masih (White Washer) and others* and according to the ratio of the *Rafiq Masih (White Washer)* case,



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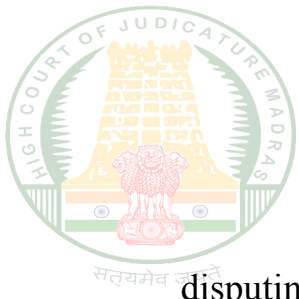
the impugned order is liable to be set aside.

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5. Per contra, the learned Special Government Pleader appearing for the respondents 1, 3 to 7 and the learned Standing Counsel appearing for the 2nd respondent would seriously object the above contention and would submit that in pursuance of the order of this Court, the petitioner's representation was considered and pay was refixed and according to the refixed pay, a relief to an extent of Rs.1,41,907/- was given. It is the further submission of the respondents that according to the undertaking given by the petitioner, whenever the excess pay was deducted in the later point of time, he bound to repay. Therefore, there is no question of any grievance over the impugned order. Hence, prayed to dismissed the writ petition.

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

7. It is an admitted fact that the petitioner retired from service on 31.07.2023 and these recoveries are subsequent to the retirement of the petitioner and apart from that, though the respondents have seriously



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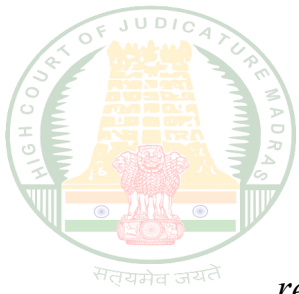
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disputing the petitioner's contention, it is not their case that the excess pay was made upon the misrepresentation or on submission of the false records by the petitioner.

8. It is an admitted fact that due to administrative error, such excess pay was paid. From the perusal of the records, it is apparently clear that those amount has been paid since 1998 more than 20 years. Therefore, after the retirement of the petitioner, if any amount is ordered to be recovered, it would definitely cause great hardship to the petitioner and would directly affect his right to life.

9. In a similar circumstances, the Hon'ble Supreme Court in the judgment of *State of Punjab and others vs. Rafiq Masih (White Washer) and others*, reported in (2015) 4 SCC 334, observed as follows:-

“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



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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).

(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.”

10. According to the above ratio, whenever any recovery is ordered subsequent to the retirement and if the recovery is beyond the period of five years, the same is liable to be interfered.

11. In such view of the settled legal position, this Court do not find



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any difficulty to quash the impugned order dated 20.03.2025 and the same is ordered to be quashed to the extent of recovery. As already observed, the petitioner has no grievance against the refixation.

12. Hence, the Writ Petition is partly allowed and the impugned order dated 20.03.2025 is quashed to the extent of recovery. Since the respondents have only refunded a part of the amount, the respondents are directed to refund the remaining the amount of Rs.2,50,543/- to the petitioner, without any interest, within a period of three months from the date of receipt of copy of this order. No costs. Consequently, the connected writ miscellaneous petition is closed.

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



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To
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State of Tamil Nadu
Home (Police) Department,
Fort St. George,
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- 2.The Principal Accountant General (A&E),
Tamil Nadu,
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- 3.The Director General of Police (L&O),
(Head of Police Force)
Office of the Director General of Police,
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- 4.The Commissioner of Police,
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- 5.The Joint Commissioner of Police,
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C.KUMARAPPAN, J.

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