



WEB COPY



W.P.No.25046 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2025

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.P.No.25046 of 2025
and
W.M.P.No.28220 of 2025

V.Kumar

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Additional Chief
Secretary to the Government,
Home (Police) Department,
Fort St.George,
Chennai – 600 009.
- 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 – 600 004.
- 4.The Commissioner of Police,
Vepery, Chennai.
- 5.The Additional Commissioner of Police,
Traffic, Chennai.

... Respondents



W.P.No.25046 of 2025

WEB COPY

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 proceedings RC.No.Tr./Payfix/194/9834/2020 T.Z.O.No.383/2020 dated 10.08.2020 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.2,10,845/-.

For Petitioner	: Mr.V.Lakshmi Narayanan
For Respondents	: Mr.R.U.Dinesh Kumar Additional Government Pleader for R1, 3 to 5 Mr.A.N.R.Jayaprathap Standing Counsel for R2

ORDER

The instant writ petition has been filed with a prayer for issuing a Certiorarified Mandamus, to call for the records in proceedings RC.No.Tr./Payfix/194/9834/2020 T.Z.O.No.383/2020 dated 10.08.2020 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.2,10,845/-.



W.P.No.25046 of 2025

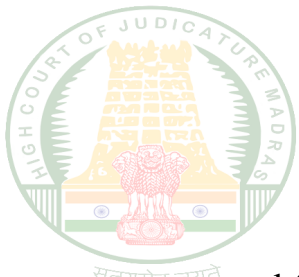
WEB COPY

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

3. According to the petitioner, he retired from service on 31.03.2020 as Sub-Inspector of Police, and the impugned order has been passed after a period of five months from the date of retirement of the petitioner.

4. The learned counsel for the petitioner would submit that though he has seriously challenged the recovery order in the impugned order dated 10.08.2020, he would fairly submit, on instructions from his client, that his client will not object to the re-fixation.

5. Coming to the recovery, according to the petitioner, the respondents ordered recovery of the amount from 01.10.1999, and the total amount ordered to be recovered is Rs.2,10,845/-. It is the submission of the petitioner that the recovery has been ordered after his retirement and also for a period of more than five years, which is against the ratio laid down by the Hon'ble Supreme Court of India in *State of Punjab and Others vs. Rafiq Masih (White Washer) and Others* reported in [(2015) 4 SCC 334]. Hence, he



W.P.No.25046 of 2025

prayed for interference with the impugned order.

WEB COPY

6. This contention was totally objected to by learned Additional Government Pleader for the respondents 1, 3, 4, and 5 and would contend that there is a delay in filing the writ petition, as the impugned order is of the year 2020, and the petitioner has approached this Court with a delay of five years. Apart from that, the learned Additional Government Pleader for the respondents 1, 3, 4 and 5 would submit that the petitioner has challenged only the re-fixation and not the recovery, and hence prayed for dismissal of the writ petition.

7. The learned Standing Counsel for the 2nd respondent also seriously objected to the present writ petition.

8. It is an admitted fact that the petitioner retired on 31.03.2020, and that the impugned order was passed on 10.08.2020, after the retirement of the petitioner. The recovery ordered pertains to the period from 1999 onwards, which is more than five years from the date of his retirement. Though the learned counsel for the respondents seriously objected to the petitioner's



W.P.No.25046 of 2025

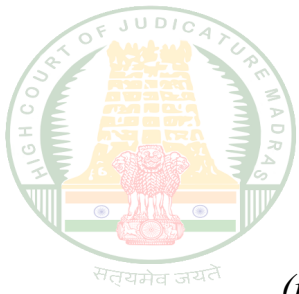
WEB COPY

claim, it is not their case that the re-fixation was made due to false representation or misrepresentation by the petitioner.

9. Therefore, when the pay was fixed administratively with some mistake and after a lapse of 25 years, if any recovery is ordered, it would definitely affect his right to livelihood, which has been categorically held by the Hon'ble Supreme Court of India in ***State of Punjab and Others vs. Rafiq Masih (White Washer) and Others*** reported in ***[(2015) 4 SCC 334]***. At this juncture, this Court deems it appropriate to extract the relevant paragraph from the said judgment. The relevant paragraph is paragraph 18, which reads 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 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).



W.P.No.25046 of 2025

WEB COPY

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

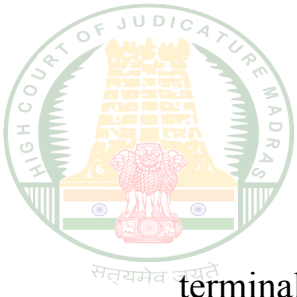
(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(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, and in view of the present facts of the case, this Court finds merit to quash the impugned order dated 10.08.2020 to the extent of recovery. It is made clear that the re-fixation made by the respondents are hereby confirmed.

11. At this juncture, the learned counsel for the petitioner would submit that the respondents have already recovered the amount from the petitioner's



W.P.No.25046 of 2025

WEB COPY

terminal benefits. If such recovery was already effected by the respondents, they are directed to refund the same without interest within a period of three months from the date of receipt of a copy of this order.

12. In the result, this writ petition stands partly allowed as indicated above. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

10.07.2025

jas

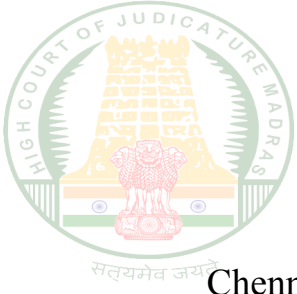
Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No

To

1.The State of Tamil Nadu,
Represented by its Additional Chief
Secretary to the Government,
Home (Police) Department,
Fort St.George,



W.P.No.25046 of 2025

Chennai – 600 009.

WEB COPY

- 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 – 600 004.
- 4.The Commissioner of Police,
Vepery, Chennai.
- 5.The Additional Commissioner of Police,
Traffic, Chennai.



WEB COPY



W.P.No.25046 of 2025

C.KUMARAPPAN, J.

jas

W.P.No.25046 of 2025
and
W.M.P.No.28220 of 2025

10.07.2025