



W.P.No.26347 of 2025

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2025

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.26347 of 2025
and W.M.P.No.29656 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 – 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.26347 of 2025

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

6.The Joint Commissioner of Police,
East Zone
Chennai.

... Respondents

Prayer: 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 proceeding RC.NO.Tr./Payfix/647/19276/2024 T.Z.O.No.637/2024 dated 30.08.2024 and NA.KA.No. TU.PA.B.KI.MA/179/10128/2024 dated 07.01.2025 issued by the 6th respondent respectively and quash the same and to consequently direct the respondents 1 to 6 (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.2,95,044/-.

For Petitioner : Mr.V.Lakshmi Narayanan

For R1 and R3 to R6 : Mr.N.Naveen Kumar
Government Advocate

For R2 : Mrs.G.Vardhini Karthik
Standing Counsel



W.P.No.26347 of 2025

WEB COPY

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 proceeding RC.NO.Tr./Payfix/647/19276/2024 T.Z.O.No.637/2024 dated 30.08.2024 and NA.KA.No. TU.PA.B.KI.MA/179/10128/2024 dated 07.01.2025 issued by the 6th respondent respectively and quash the same and to consequently direct the respondents 1 to 6 (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.2,95,044/-.

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

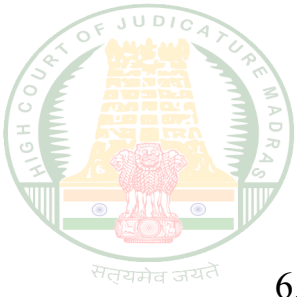


W.P.No.26347 of 2025

WEB COPY

4. The learned counsel for the petitioner would submit that the petitioner was appointed as Grade II Police Constable in the Tamil Nadu Police Department on 17.03.1986 and subsequently, he was promoted as Grade I Police Constable and further, he was promoted to the post of Sub-Inspector of Police. It is the submission of the petitioner that after rendering 38 years of service and on attaining the age of superannuation, he retired from service on 31.07.2024. After his retirement, the impugned order of refixation and recovery was passed on 30.08.2024 and 07.01.2025 on the premise that there was an alleged excess payment since 1998. It is the contention of the petitioner that the petitioner's case is squarely covers with 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***.

5. Though the learned counsel for the petitioner would strongly object the recovery, he would fairly submit on instructions from his client that he has no objection in respect of the refixation of pay, as it comes within the expert domain.



W.P.No.26347 of 2025

WEB COPY

6. Per contra, the learned Government Advocate appearing for the respondents 1 and 3 to 6 would vehemently contend that whenever re-fixation is ordered, the employee has given an undertaking to repay the same as and when the excess pay was found in future. In the case in hand, based upon the notice issued by the Accountant General, they have issued present impugned recovery notice, therefore, the petitioner cannot have any grievance, as he liable to pay in accordance with his undertaking.

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

8. It is an admitted fact that the petitioner was retired on 31.07.2024 and it is further an admitted fact that the impugned order was passed on 30.08.2024 and 07.01.2025 after the retirement of the petitioner. While looking at the impugned order, the alleged excess amount beyond the entitlement of the petitioner was paid since 01.09.1998 to 01.06.2024, which is more than 5 years period from the date of retirement of the petitioner.



W.P.No.26347 of 2025

WEB COPY

9. Though the learned Government Advocate for the respondents 1 and 3 to 6 would strongly object that the petitioner is liable to pay the amount as demanded in the impugned notice, as he undertook to pay the same, it is not their case that the excess amount was paid based upon his misrepresentation.

10. In such view of the factual position, as rightly contended by the learned counsel for the petitioner that the present case is squarely comes within the ratio of the Hon'ble Supreme Court held in ***State of Punjab and others vs. Rafiq Masih (White Washer) and others***, reported in (2015) 4 ***SCC 334***. For ready reference, this Court deems it appropriate to extract the relevant Paragraph No.18 hereunder:-

“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).



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.”*

11. As per the above ratio, whenever any order of recovery is passed on the alleged excess payment, which has been made beyond five and after retirement, would liable to be quashed. Hence, the impugned order passed by the 6th respondent dated 07.01.2025 is quashed to the extent of recovery. However, the pay refixation made by the 5th respondent is hereby confirmed.

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



W.P.No.26347 of 2025

WEB COPY

respondents have already recovered a sum of Rs.2,95,044/- from the petitioner, if it is so, the 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.

13. In the result, the Writ Petition is partly allowed to the extent of recovery. No costs. Consequently, the connected writ miscellaneous petition is closed.

22.07.2025

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



W.P.No.26347 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),
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.
- 5.The Joint Commissioner of Police,
Traffic Zone, (South)
Chennai.
- 6.The Joint Commissioner of Police,
East Zone
Chennai.



WEB COPY



W.P.No.26347 of 2025

C.KUMARAPPAN, J.

dm

W.P.No.26347 of 2025

22.07.2025