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W.P.No.31657 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.31657 of 2025

S.Sundarapandian

... Petitioner

Vs.

1.The Additional Director General Of Police
Of Police Admini, Dr Radharishnan Road,
Mylapore, Chennai 600 004.

2.Superintendent Of Police
District Police Office, Tirupur

3.Additional Superintendent Headquarters
District Police Office, Tirupur

4.Accountant General Office
No. 361 Annasalai Teynapet, Chennai

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, CALL FOR RECORDS of the 4th respondent vide AG (A and E) /PEN po5/10536847/2/RO536847 DATED 25.09.2024 and quashing the same as null and void and consequently direct the respondents to refund the amount of Rs. 67,386 recovered from the petitioner by way of excess salary paid to



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him besides directing the 4th respondent to refix the last drawn salary of the petitioner at Rs.64,600/- for the purpose of calculation of Pension within a time frame.

For Petitioner : M/s.K.Ravi Anantha Padmanathan,
Senior Counsel
for M/s.S.Dayanand

For Respondents : M/s.Dinesh Kumar, AGP
for R.1 to R.3.
: M/s.P.Mano Rajan, Standing Counsel
for R.4

ORDER

The writ petition has been filed for the following reliefs:-

“Call for records of the 4th respondent vide AG (A and E) /PEN po5/10536847/2/RO536847 DATED 25.09.2024 and quashing the same as null and void and consequently direct the respondents to refund the amount of Rs.67,386/- recovered from the petitioner by way of excess salary paid to him besides directing the 4th respondent to refix the last drawn salary of the petitioner at Rs.64,600/- for the purpose of calculation of Pension within a time frame.”

2. It is the case of the petitioner that he had retired as a Special Sub Inspector of Police on 31.05.2024 from the Tiruppur District having served



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the Police Department for over 39 years rendering an unblemished service.

The petitioner has to his credit the fact that he has never faced departmental action nor criminal prosecution. However, 11 months after his retirement on 09.04.2025, the respondents had reduced the petitioner's last drawn salary from Rs.64,600/- to Rs.62,700/- by stating that he had been excessively paid. The petitioner would submit that his batch mates are drawing a pension of Rs.64,600/- and juniors who had retired after his retirement were also drawing pension of Rs.64,600/-.

3. The petitioner would submit that he had joined the police department as a Gr.II P.C. in the year 1984 and was promoted on merit and seniority basis to the post of Gr.I, P.C. Thereafter, he was promoted as a Head Constable and then as a S.I. of Police from which post he had retired.

4. Just a few days prior to his retirement by the impugned order dated 25.09.2024 the petitioner's pay was reduced to Rs.62,700/-. Thereafter, on 09.04.2025, the 3rd respondent had sent a communication that between 01.01.2020 and 31.05.2024, an excess sum of Rs.67,386/- was paid to the petitioner and the same had to be recovered from his gratuity amount. Therefore, the petitioner had sent several representations dated



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27.03.2025, 03.06.2025, 14.07.2025 and 23.07.2025 requesting the

respondents to refix his last drawn salary as to which there has been no response and now recovery is sought to be initiated against the petitioner.

Therefore, the petitioner is before this Court.

5. Heard the learned counsel on either side.

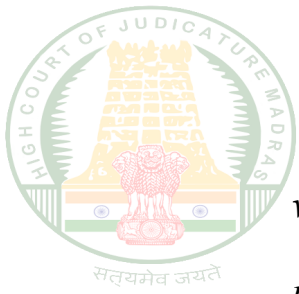
6. The Hon'ble Supreme Court in the judgement reported in **2015 4 SCC 334 State of Punjab & Ors vs. Rafiq Masih (White Washer) and others** had laid down certain guidelines for recovery by the employers and had given the contingencies where recovery is impermissible and the same would read as follows:-

(i) Recovery from employees belonging to Class III and Class IV service (or Group 'C' and Group 'D' service).

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

(iii) Recovery from 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



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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.

7. The above guidelines have been followed by the Government of Tamil Nadu in GO.Ms.No.286 dated 28.08.2018 (Finance and Pension Department)

8. Considering the above, the Writ Petition is partly allowed as follows:-

(i) The order directing recovery of the excess amount is set aside and any amount already recovered shall be refunded to the petitioner within a period of 1 month from the date of receipt of a copy of this order.

(ii) The order dated 03.07.2024 passed by the 4th respondent re-fixing the petitioner's last drawn salary at Rs.62,700/- is set aside and the



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matter is remitted back to the 4th respondent for fresh consideration. The 4th respondent is directed to re-fix the salary of the petitioner after taking into consideration the representations submitted by the petitioner dated 27.03.2025, 03.06.2025, 14.07.2025 and 23.07.2025, within a period of 2 months from the date of receipt of a copy of this order. No costs.

25.08.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The Additional Director General Of Police
Of Police Admini, Dr Radharishnan Road,
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