



W.P.No.34516 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2025

CORAM:

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

W.P.No.34516 of 2025

R.Babu

...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 Deputy Commissioner of Police,
Headquarters,
Chennai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, to



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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.66504 SA.F/1(1)/2022-I GR.CH.PO No.3178/2023 dated 30.07.2023 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.1,36,365/-.

For Petitioner : Mr.V.Lakshmi Narayanan

For Respondents : Mr.R.U.Dinesh Raj Kumar, AGP, for R1
: Mr.T.Ravi Kumar, Standing Counsel, for R2

ORDER

This Writ petition has been filed seeking quashment of the order of the 5th respondent in proceedings Na.Ka.No.66504 SA.F/1(1)/2022-I GR.CH.PO No.3178 of 2023 dated 30.07.2023 and to consequently direct the respondents to restore the pay of the petitioner and accordingly, refix his last drawn pay and to refix his pension and pay the arrears of pension and also to repay the petitioner the recovered amount of Rs.1,36,365/-.



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2. Mr.Mr.R.U.Dinesh Raj Kumar, learned Additional Government Pleader takes notice on behalf of the 1st respondent, Mr.T.Ravi Kumar, learned Standing Counsel takes notice on behalf of the 2nd respondent. In view of the consent expressed by the learned counsel on either side, this Writ petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that he was appointed as a Grade II Police Constable in the Tamil Nadu Police Department on 27.02.1986 and after completion of 37 years of service, the petitioner retired from service as Sub Inspector of Police, Armed Force in Greater Chennai Police on 31.05.2023, on attaining the age of superannuation. While so, the petitioner was issued with the present impugned order of reduction and refixation of his pay passed by the 5th respondent, by proceedings dated 30.07.2023 and further recovery of a sum of Rs.1,36,365/- was also ordered. The petitioner is in no way responsible for the excess payment made for the period from 01.10.2017 to 31.05.2023. Aggrieved by the said order of the 5th respondent, the petitioner is before this Court.



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4. Heard the learned counsel on either side and perused the materials available on record.

5. The issue of recovery was already decided by the Hon'ble Apex Court in the case of *State of Punjab Vs. Rafiq Masih (White Washer) etc.*, reported in **2015 (4) SCC 334**, wherein, the Hon'ble Supreme Court has held that the recovery cannot be done without issuing a show cause notice.

6. That apart, the Hon'ble Apex Court had laid down five contingencies where recovery by the employers was impermissible in law. One of which was recovering excess payment made five years before the order of recovery was issued.

7. Further, this Court, in similar cases ordered for refund of the money recovered along with interest at the rate of 6% per annum.



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8. In the instant case also, the impugned order directs that a sum of Rs.1,36,365/- should be recovered from the petitioner's pensionary benefits and credited to the Government account.

9. In the light of the above, this Court is of the view that, the amount which has been paid to the petitioner as early as in the year 2017 cannot be sought to be recovered. In case the amount has already been recovered, the same should be refunded to the petitioner.

10. In view of the above, this Court directs the 5th respondent to refund the amounts, if any, recovered from the petitioner within a period of two (2) months from the date of receipt of a copy of this order. With reference to the other relief pertaining to refixation, the petitioner is directed to give a representation to that effect before the 5th respondent, and on such representation being made, the same shall be considered and appropriate orders shall be passed on merits and in accordance with law, as expeditiously as possible.



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WEB COPY 11. Accordingly, this Writ Petition stands allowed in part with the aforesaid directions. No costs.

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Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To:

1. The State of Tamil Nadu,
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Dispensed with for the present.

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(1/2)

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