



W.P.No. 36175 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.10.2025

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THE HONOURABLE Mr. JUSTICE A.D. JAGADISH CHANDIRA

W.P.No. 36175 of 2024
&
W.M.P.No. 39060 of 2024

A.Vijayakumar

...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 Director General of Police (L & O),
(Head of Police Force),
Office of the Director General of Police,
Mylapore, Chennai – 600 004.

3.The Commissioner of Police,
Vepery,
Chennai.



W.P.No. 36175 of 2024

4.The Deputy Commissioner of Police,
Headquarters,
Greater Chennai Police,
Chennai.

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

...Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India, seeking Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned orders issued by the 4th and 5th respondents in proceedings Na.ka. No. /Payfix/2(2)/82/2019, C.G.P. O.NO. 2529/2019 dated 06.09.2019 and Na.Ka. No./Payfix. 703/24251/2019, TR.O.No. 745/2019 dated 18.09.2019 and quash the same and to consequently direct the respondents 1 to 4 (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. 2,10,157/-.



W.P.No. 36175 of 2024

For Petitioner : Mr. V.Lakshmi Narayanan
For Respondents : Mr. M.Suresh Kumar
Additional Advocate General
Assisted by
Mr. Yogesh Kannadasan
Special Government Pleader.

ORDER

This Writ petition has been filed seeking quashment of the order of the 4th and 5th respondents in proceedings Na.ka. No. /Payfix/2(2)/82/2019, C.G.P. O.NO. 2529/2019 dated 06.09.2019 and Na.Ka. No./Payfix. 703/24251/2019, TR.O.No. 745/2019 dated 18.09.2019 and to consequently direct the respondents 1 to 4 (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. 2,10,157/-.



W.P.No. 36175 of 2024

2. 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 33 years of service, the petitioner retired from service as Sub Inspector of Police, on 30.09.2019, 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 4th respondent, by proceedings dated 06.09.2019 and further recovery of a sum of Rs.2,10,157/- was also ordered. The petitioner is in no way responsible for the excess payment made for the period from 01.01.2007 to 01.01.2019. Aggrieved by the said order of the 5th respondent and also seeking a mandamus as stated in the opening paragraph, this writ petition is filed.



W.P.No. 36175 of 2024

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.

8. In the instant case also, the impugned order directs that a sum



of Rs.2,10,157/- 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 2007 cannot be sought to be recovered. Hence, the impugned order is set aside. 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 4th 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 4th 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 after affording an opportunity of hearing to the petitioner.



W.P.No. 36175 of 2024

11. Accordingly, this writ petition stands disposed of with the aforesaid directions. Consequently, the connected miscellaneous petition is closed. No costs.

06.10.2025

Index : Yes/No
Internet : Yes/No

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W.P.No. 36175 of 2024

To

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W.P.No. 36175 of 2024

A. D. JAGADISH CHANDIRA, J.

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W.P.No. 36175 of 2024

06.10.2025