



W.P.No.39986 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2025

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.P.No.39986 of 2024
and
W.M.P.No.43290 of 2024

B.Porumainathan

... Petitioner

Vs.

1.The Deputy Registrar (Public Distribution System),
Primaries (North),
No.58, Ibrahim Salai,
Royapuram, Chennai – 600 013.

2.The Accountant General,
Office of the Accountant General (A&E),
No.361, Anna Salai,
Teynampet, Chennai – 600 018.

... Respondents

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 respect of impugned order Na.Ka.609/2022 அபஅ, dated 12.09.2023 passed by the 1st respondent and quash the same and consequently direct the respondents to pay the balance Gratuity amount of Rs.6,02,940/-, Special Pay, Pension and also all other retirement monetary benefits to the petitioner.



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For Petitioner : Mr.D.Gopinathan

For Respondents : Mr.N.Naveen Kumar
Government Advocate
for R1
Mr.P.Mano Rajan
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 respect of impugned order Na.Ka.609/2022 அபஅ, dated 12.09.2023 passed by the 1st respondent and quash the same and consequently direct the respondents to pay the balance Gratuity amount of Rs.6,02,940/-, Special Pay, Pension and also all other retirement monetary benefits to the petitioner.

2. The learned counsel for the petitioner would submit that he retired from service on 31.12.2022 as a Selection Grade Driver. After his retirement, on 12.09.2023, the impugned order had been passed as if there was excess payment beyond the entitlement of the petitioner for the period from 01.04.2008 to 31.12.2022, and a direction was issued to recover a sum of Rs.6,02,940/-.



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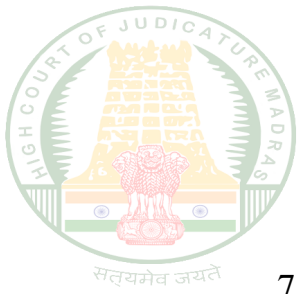
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3. The learned counsel for the petitioner would further submit that there was no misrepresentation on the part of the petitioner, and that any recovery effected after retirement, for a period commencing more than five years prior to the date of recovery, would cause a harsh impact upon his right to life. Hence, he prayed for interference with the said order.

4. Per contra, the learned Government Advocate would vehemently contend that the recovery was effected based upon the revised scale of pay, and that whenever any pay revision was made, the petitioner had given an undertaking to refund the excess pay, if any, received.

5. In such view of the matter, the petitioner cannot have any grievance in respect of the recovery.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the 1st respondent and the learned Standing Counsel for the 2nd respondent.



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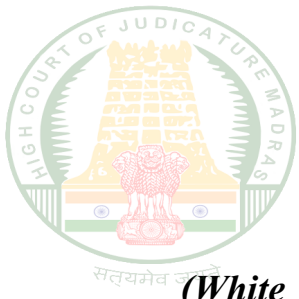
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7. Though the learned counsel for the petitioner challenged the recovery order dated 12.09.2023, he would fairly accept the pay fixation, as it falls within the expert domain. Therefore, this Court records that there is no dispute with respect to the pay fixation. However, the petitioner has a grievance only with regard to the recovery.

8. Coming to the issue of recovery, as rightly contended by the learned counsel for the petitioner, it was effected for the period from 01.04.2008 to 31.12.2022, which is beyond the period of five years from the date of retirement. Further, the impugned order was passed subsequent to the petitioner's retirement.

9. It is an admitted fact that the pay fixation was not made based on any false representation by the petitioner, and it was only an administrative lapse. For such lapse, the petitioner cannot be mulcted with any liability, especially after retirement.

10. In such view of the matter, by applying the ratio laid down by the Hon'ble Supreme Court in *State of Punjab and Others vs. Rafiq Masih*



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(*White Washer*) and *Others* reported in [(2015) 4 SCC 334], this Court deems it appropriate to set aside the recovery. However, the pay fixation made by the authority is confirmed. Accordingly, this Writ Petition is liable to be allowed only to the extent of setting aside the recovery of Rs.6,02,940/-.

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

12. At this juncture, the learned counsel for the petitioner would submit that in view of the impugned order, the petitioner's terminal benefits have not yet been settled by the respondents. Accordingly, the respondents are directed to settle the same, within a period of three months from the date of receipt of a copy of this order.

26.06.2025

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Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No



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