



W.P.(MD)No.22449 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2025

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.(MD) No.22449 of 2025

and

W.M.P.(MD) No.17539 of 2025

S.R.Balasubramanian

: Petitioner

Vs.

1. The Superintendent of Police,
Office of the Superintendent of Police,
Special Branch CID,
Chennai.

2. The Accountant General,
Accountant General Office Complex,
Annasalai,
Rostrevor Garden,
Teynampet,
Chennai-600 018.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 1st respondent dated 13.06.2025 in Rc No.B2/94/2779/2025 D.No.604/SB/2025 and consequently passed the impugned order in Na.Ka.No.e1/Thapi/345/E-8637614/2024 dated 16.06.2025 to recover Rs.2,54,198/- from the Death cum Retirement Gratuity set-aside the same and direct the respondent to grant full pension.



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For Petitioner : Mr.N.Taminmani
For Respondents : Mr.K.Balasubramanian (R1)
Special Government Pleader
Ms.Mahalakshmi (R2)

ORDER

This writ petition has been filed challenging the impugned orders passed by the 1st respondent dated 13.06.2025 in Rc No.B2/94/2779/2025 D.No.604/SB/2025 and in Na.Ka.No.e1/Thapi/345/E-8637614/2024 dated 16.06.2025 recovering a sum of Rs.2,54,198/- from the Death cum Retirement Gratuity with a consequential direction to the respondents to grant full pension.

2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner was appointed as Grade II Police Constable in the year 1988 and he voluntarily retired from service as Special Sub Inspector of Police in the year 2024. After retirement, now, the impugned recovery order came to be passed stating that during the period



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between 01.06.2013 to 31.12.2024. Challenging the same, this writ petition came to be filed.

4. The learned counsel appearing for the petitioner would submit that the petitioner retired from service in the year 2024 and the respondents on their own calculated the salary of the petitioner for the post of Special Sub Inspector of Police and now, the order of recovery of excess payment after retirement as if there was wrong fixation of pay from 01.06.2013 is impermissible one.

5. The learned counsel appearing for the petitioner relied upon the judgment of the Hon'ble Supreme Court in the case of 'State of Punjab Vs. Rafiq Masih (White Washer)' reported in '(2015) 4 SCC 334' and the relevant portion reads as follows:-

“Recoveries by the employers, would be impermissible in law:

(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



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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.”

6. The learned counsel appearing for the second respondent vehemently contended that wrong fixation of pay is on the basis of the audit explanation and hence, the petitioner's excess pay was sought to be recovered by way of the impugned order, which need not interference of this Court.

7. The learned Special Government Pleader appearing for the first respondent submitted that as per the decision of the Hon'ble Supreme Court, recovery cannot be made after retirement. However, there is no bar for refixation of salary.

8. Heard the learned counsel on either side.



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9. The judgment relied upon by the learned counsel appearing for the petitioner is applicable to the present case on hand. In the case on hand also, the respondents have sought to make recovery from the year 2013 onwards, the same is impermissible in law. However, this Court is not inclined to interfere with re-fixation of pension.

10. In fine, this writ petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

18.08.2025

Index : Yes / No
NCC : Yes / No
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M.DHANDAPANI, J.

Sm

To:-

1. The Superintendent of Police,
Office of the Superintendent of Police,
Special Branch CID,
Chennai.

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