IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-06-2026

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

WP No. 18251 of 2026

S.Manickam
S/o.P.Sengodu
1/506 Kumarakotam Village
Pattukonampatti (P.O.)
Pappireddipatti Taluk
Dharmapuri 636905.

..Petitioner(s)

Vs

1. The Superintendent of police
   District Police Office
   Dharmapuri District.
2. The Accountant General Office
   No.361 Annasalai
   Teynampet, Chennai.

..Respondent(s)

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India seeking the issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent vide Rc.No. F3/11730/2019 dated 27.11.2019 and quashing the same as null and void and consequently direct the respondent to refund the amount of Rs.1,00,147/- recovered from the petitioner by way of excess salary paid to him besides directing the 2nd respondent to re-fix the last drawn salary of the petitioner at Rs. 55,700 for the purpose of calculation of pension.

For Petitioner(s): Mr.K.Ravi Anantha Padmanaban
Senior Counsel
for Mr. S.Dayanand

For Respondent(s): Mr.V.Prasad, Government Advocate

ORDER

The Writ petition is filed for the following relief:-

" To call for the records of the 1st respondent vide Rc.No.F3/11730/2019 dated 27.11.2019 and quashing the same as null and void and consequently direct the respondent to refund the amount of Rs.1,00,147/- recovered from the petitioner by way of excess salary paid to him besides directing the 2nd respondent to re-fix the last drawn salary of the petitioner at Rs. 55,700 for the purpose of calculation of pension."

2. The petitioner was appointed as a Grade II Police Constable in the Tamil Nadu Police Department in the year 1985 and was subsequently promoted to the post of Grade I Police Constable. Thereafter, he had attained superannuation on 31.05.2019, while serving as a Sub-Inspector of Police in Dharmapuri District.

3. The grievance of the petitioner is that after retirement, the 1st respondent sent a communication dated 27.11.2019 to him stating that

between 01.01.2012 to 31.05.2019, an excess salary of Rs.1,00,147/- was paid and hence, it was ordered to be recovered from his gratuity amount. Further, the 2nd respondent, by order dated 01.06.2019, re-fixed his salary from Rs.55,700/- to Rs.54,100/-. The petitioner contends that he was no way responsible for the excess payment for the period of 01.01.2012 to 31.05.2019. Therefore, the petitioner had sent several representations to the respondents requesting to re-fix his last drawn salary as to which there has been no response. Therefore aggrieved the petitioner is before this Court.

4. The learned Senior Counsel appearing for the petitioner would rely on the judgment of the Hon'ble Supreme Court 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 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.

5. Further, the above guidelines have been followed by the Government of Tamil Nadu in G.O.Ms.No.286 dated 28.08.2018 (Finance and Pension Department).

6. The learned counsel further submits that the impugned order is in violation of the principles of natural justice since no prior notice was issued, calling for the petitioner's objections on the proposed recovery by the respondents herein cannot unilaterally resort to recover the alleged excess payment.

7. Heard the learned Senior Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

8. It is settled proposition that the principles of natural justice requires issuance of prior show cause notice, proposing such a recovery and calling for the objections of the employees on the proposal. In the absence of such a show cause notice, the order of recovery cannot be sustained. On this ground also,

the impugned order is liable to be set aside. Further, the re-fixation has been done without issuing notice to the petitioner and therefore, the same cannot be sustained. That apart, the petitioner's representation has also not been considered.

9. In view of the above, the Writ Petition is 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 one (1) month from the date of receipt of a copy of this order.

(ii) Insofar as the other relief relating to re-fixation of pay is concerned, the same is set aside and the second respondent is directed to consider the petitioner's representation and pass appropriate orders, after affording am opportunity of personal hearing to the petitioner to put forth his objections regarding the re-fixation of pay, within a period of two (2) months thereafter.

There shall be no order as to costs.

03-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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P.T.ASHA, J.

Asi

To

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