



WEB COPY

WP No. 37131 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-02-2026

CORAM

THE HON'BLE MR JUSTICE M.DHANDAPANI

WP No. 37131 of 2025

and W.M.P.No.3049 of 2026

Kothandapani

..Petitioner(s)

Vs

1. The State of Tamil Nadu,
Represented by its Additional Chief Secretary
to 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),
Office of the Director General Of Police,
Mylapore, Chennai - 600 004.
4. The Deputy Director,
Tamil Nadu Police Academy, Chennai.

..Respondent(s)

Prayer: This writ petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of impugned order of the 4th respondent in his proceeding in Na.Ka.No.B1/E- 8270700/ 2024 Ta.Na.Ka.U. Order No./317/2024 dated 12.11.2024 and quash the same and consequently direct the respondents to refund the recovered amount to the petitioner.



For Petitioner(s) : Mr.A.Ilayaperumal

For Respondent(s) : Mr.P.Balathandayutham,
Special Government Pleader for R1, 3 & 4
Mr.T.Ravikumar,
Standing Counsel Takes for R2

ORDER

This writ petition is filed to call for the records of impugned order of the 4th respondent in his proceeding in Na.Ka.No.B1/E- 8270700/ 2024 Ta.Na.Ka.U. Order No./317/2024 dated 12.11.2024 and quash the same and consequently direct the respondents to refund the recovered amount to the petitioner.

2. Learned counsel for the petitioner would submit that the petitioner was appointed as Grade-II Police Constable in the year 1984 and retired on 31.05.2024 as Sub-Inspector of Police. Thereafter, the second respondent has fixed his monthly pension at the rate of Rs.62,700/-. Subsequent to the retirement, the fourth respondent has passed the impugned order of recovery, seeking to recover an amount of Rs.1,61,813/- with regard to the excess payment said to have been made to the petitioner. Challenging the said recovery order, the petitioner has filed this present writ petition.

3. Learned counsel for the petitioner would submit that the petitioner has no grievance in fixing the pension at the rate of Rs.62,700/-, however the



recovery of Rs.1,61,813/- against the petitioner is not sustainable on the simple ground that the petitioner has not obtained a pension by way of suppression or misrepresentation. The respondents on their own paid the amount, which cannot be recovered after the retirement and that too without providing any opportunity to the petitioner.

4. To substantiate the claim, learned counsel for the petitioner relied on the judgment passed by the Hon'ble Supreme Court of India in ***State of Punjab and Others vs. Rafiq Masih (White Washer) and Others, reported in [(2015) 4 SCC 344]***.

5. Learned Special Government Pleader appearing for the respondents would submit that admittedly, the petitioner's pension is fixed at the rate of Rs.62,700/- instead, he received a sum of Rs.64,400/- which is not sustainable and the same has to be recovered from the petitioner. Apart from that, the judgment relied by the petitioner is only applicable to Group C and D employee, but in the case on hand, the petitioner is a Group B employee. Hence, the same is not applicable to the petitioner. Accordingly, he prays for dismissal of this writ petition.

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



7. It is an admitted fact that the impugned order dated 12.11.2024 was passed subsequent to the retirement of the petitioner, and it is further admitted that the amount alleged to have been paid in excess. Though the learned Special Government Pleader for the respondents would strongly object to this writ petition, it is not their case that the excess payment was made due to the misrepresentation by the petitioner.

8. In such view of the submission, as rightly contended by the learned counsel for the petitioner, the facts of this case is squarely covered by the Judgment of *State of Punjab and Others vs. Rafiq Masih (White Washer) and Others, reported in [(2015) 4 SCC 344]*. The relevant paragraph is paragraph 18, which reads as follows:-

“18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payment have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service)

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.



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(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.

9. By applying the ratio laid down by the Hon'ble Supreme Court of India (stated supra), the excess amount already paid to the petitioner cannot be recovered. However, the pension can be re-fixed considering the emoluments to which the petitioner is entitled at the time of his retirement in accordance with rules. Accordingly, the impugned order dated 12.11.2024, is hereby quashed to the extent of recovery and the re-fixation of pension made by the respondents is confirmed, since the petitioner itself agreed for re-fixation of pension at the rate of Rs.62,700/-.

With the above terms, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

04-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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WP No. 37131 of 2



M.DHANDAPANI, J.

VM

To:

1. The Additional Chief Secretary to 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),
Office Of the Director General Of Police,
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