BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.A(MD)No.428 of 2026
and
C.M.P(MD)No.3849 of 2026

1.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai - 600 004.

2.The Superintendent of Police,
Tirunelveli District,
Tirunelveli. ... Appellants/Respondents 1 & 2

vs.

1.K Puthiyavan,
Son of Kurunatha Konar,
No.21-A, Sailappar Street, Tirunelveli Town,
Tirunelveli District. ... 1st Respondent/Writ Petitioner

2.The Accountant General,
(Accounts and Establishment),
No. 361, Anna Salai,

Taynampet,
Chennai – 18. ... 2nd Respondent/3rd Respondent

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 31.07.2024 made in W.P(MD)No.20081 of 2023 on the file of this Court.

For Appellants	: Mr.S.P.Maharajan Special Government Pleader
For Respondents	: Mr.A.Rajaram (R1)
	: Mr.P.Gunasekaran (R2)

JUDGMENT

[Judgment of the Court was made by N.SATHISH KUMAR, J.)

Challenging the order passed by the learned Single Judge in W.P(MD)No.20081 of 2023, dated 31.07.2024, whereby the order of recovery as well as the revised pay fixation were set aside, the present Writ Appeal has been filed by the State.

2.The first respondent/writ petitioner retired as a Special Sub-Inspector of Police in the year 2020. While he was serving as a Grade-I Constable, an incentive increment was erroneously granted to him in the year 2013. As per the applicable rules, he was not entitled to such incentive increment. Subsequently, after his retirement, it was noticed, based on the communication of the Accountant General, that the pay had been wrongly fixed. Consequently, the appellants passed proceedings revising the pay fixation and, thereafter, issued an order dated 08.10.2021 directing recovery of the excess amount paid. The said order was challenged in the Writ Petition.

3.The learned Single Judge, relying upon the judgment of the Hon'ble Supreme Court of the India in the case of ***State of Punjab and others Vs. Rafiq Masih (White Washer) [2015 (4) SCC 334]***, held that since the recovery was sought to be made after a period of five years, the same is unsustainable and liable to be set aside. While setting aside the recovery, the learned Single Judge also set aside the revised fixation on the ground that no notice whatsoever was issued to the writ petitioner prior to such refixation. The authorities were, however, directed to issue notice to the writ petitioner, afford him an opportunity to make his submissions, and thereafter pass appropriate orders.

4.The learned counsel appearing for the appellants/State submitted that the grant of incentive increment to the first respondent was contrary to the rules, and therefore, the authorities were well within their powers to revise the pay fixation. It is further submitted that the learned Single Judge erred in setting aside the revised fixation, as the same was carried out in accordance with the applicable rules based on the audit objection raised by the Accountant General. It is also contended that the direction to issue notice prior to refixation was unwarranted in the facts and circumstances of the case.

5.Per contra, the learned counsel appearing for the first respondent/writ petitioner submitted that the excess payment, if any, was not on account of any misrepresentation or fraud on the part of the writ petitioner, but solely due to an error committed by the department. It is further submitted that the recovery sought to be made after a lapse of several years, particularly after retirement, is impermissible in law, in view of the judgment of the Hon'ble Supreme Court in ***State of Punjab and others Vs. Rafiq Masih (White Washer) [2015 (4) SCC 334]***. It is also contended that the revised fixation was effected without issuing any notice or affording an opportunity to the writ petitioner, thereby violating the principles of natural justice.

6.We have heard the learned counsel appearing on either side and perused the materials available on record.

7.Insofar as the recovery is concerned, we are of the view that the excess amount paid cannot be recovered after a period of five years, especially when the payment was not the result of any misrepresentation or fraud on the part of the employee. In the present case, the incentive increment was sanctioned by the employer on its own, and the writ petitioner cannot be faulted for the same. Therefore, the ratio laid down by the Hon'ble Supreme Court in **White Washer's case** (cited supra) squarely applies to the case of the first respondent/writ petitioner. Accordingly, the order of the learned Single Judge setting aside the recovery is confirmed.

8.However, insofar as the revised pay fixation is concerned, we are of the view that the learned Single Judge was not justified in setting aside the same. The revised fixation has been carried out based on the applicable rules and pursuant to the objection raised by the Accountant General. The correctness of such fixation, being in accordance with the rules, cannot be faulted. Hence, the order of the learned Single Judge setting aside the revised fixation is liable to be interfered with.

9.In such view of the matter, the impugned order of the learned Single Judge, insofar as it sets aside the revised pay fixation, alone is quashed.

10.Accordingly, the Writ Appeal is partly allowed. The appellants are directed to release all other eligible monetary benefits to the first respondent/writ petitioner. It is made clear that if any recovery has already been effected pursuant to the order dated 08.10.2021, the same shall be refunded to the first respondent/writ petitioner. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[N.S.K.,J.] [M.J.R.,J.]
26.03.2026

NCC : Yes / No
Index : Yes / No
ps

To

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