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W.P.No.46885 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.46885 of 2025
And
W.M.P.No.52368 of 2025**

A.Manivelu

... Petitioner

Vs.

1 THE STATE OF TAMILNADU
REPRESENTED BY ITS ADDITIONAL
CHIEF SECRETARY TO THE 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),
(HEAD OF POLICE FORCE)
OFFICE OF THE DIRECTOR GENERAL OF POLICE,
MYLAPORE,
CHENNAI – 600 004.

4 THE SUPERINTENDENT OF POLICE,
SBCID, MYLAPORE,
CHENNAI – 600 004.

... Respondents



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Prayer:

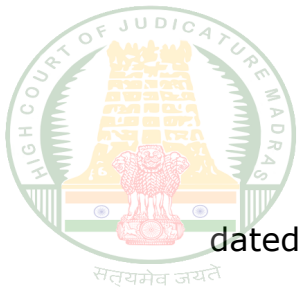
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order issued by the fourth respondent in proceeding Na.Ka.No.B2.TA.P/011606/2022 MA.Aa.No.888/TA.P/2022 dated 30.11.2022 and quash the same and to consequently direct the respondents 1 to 4 (i)to restore the pay of the petitioner and to accordingly refix his last drawn pay, (ii) to refix his pension and pay the arrears of pension and (iii) to repay to the petitioner the recovered amount of Rs.2,32,963/-.

For Petitioner : Mr.V.Lakshmi Narayanan
For Respondents : Mr.P.Balathandayutham for R1, R3 & R4
Special Government Pleader
Mr.P.Manorajan for R2
Standing Counsel

O R D E R

By consent, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order issued by the fourth respondent in proceeding Na.Ka.No.B2.TA.P/011606/2022 MA.Aa.No.888/TA.P/2022



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dated 30.11.2022 and quash the same and to consequently direct the respondents 1 to 4 to restore the pay of the petitioner and to accordingly refix his last drawn pay, to refix his pension and pay the arrears of pension and to repay to the petitioner the recovered amount of Rs.2,32,963/-.

3.The learned counsel appearing for the petitioner submitted that the petitioner was appointed as the Grader II Police Constable in the Tamil Nadu Police Department on 27.02.1986 and was promoted as Grade I Police Constable and was further promoted as Special Sub Inspector of Police and he retired from service on 31.07.2022. After retirement, the fourth respondent issued the impugned order ordering recovery stating that excess salary was paid to the petitioner.

4.The learned counsel appearing for the petitioner further submitted that the issue involved in the writ petition is no longer res integra. It has already been decided by the Hon'ble Apex Court in the decision reported in **2015 (4) SCC 334 [State of Punjab Vs.Rafiq Masih (White Washer) and others]** and further submitted that this Court in the case of similarly situated persons in W.P.No.30385 of 2025 [C.Ramesh Vs. State of Tamilnadu and others] dated 14.08.2025



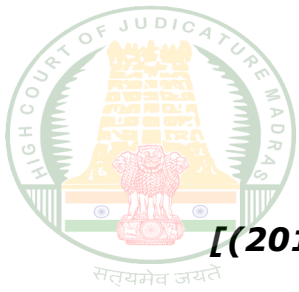
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and in W.P.No.32594 of 2024 [G.Arputham Vs. State of Tamilnadu and others] dated 10.10.2025 issued direction to refund the amount to the petitioners therein.

5.Per contra, the learned Special Government Pleader submitted that the pay was wrongly fixed while the petitioner was in service and the excess salary paid to the petitioner has to be recovered and hence the impugned order was passed based on the audit objection.

6.The petitioner was appointed as the Grader II Police Constable in the Tamil Nadu Police Department on 27.02.1986 and was promoted as Grade I Police Constable and was further promoted as Special Sub Inspector of Police and he retired from service on 31.07.2022. After his retirement, the impugned order was passed ordering recovery. However, perusal of impugned order reveal that the impugned order was passed without giving any opportunity to the petitioner which is clear violation of principles of natural justice.

7.In a similar situation, the Hon'ble Apex Court in ***State of Punjab and others vs. Rafiq Masih (White Washer) and others***



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[(2015) 4 Supreme Court Cases 334], held as follows in paragraph

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"18.It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein 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 of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to



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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."

8.In the above case, the Hon'ble Apex Court has categorically held that there cannot be any recovery for the amount which has been paid more than five years and also after the retirement of the employee. Hence, the impugned order warrants interference.

9.The writ petition is allowed. The order issued by the fourth respondent dated 30.11.2022 is set aside. The respondents are directed to refund the recovered amount of Rs.2,32,963/- to the petitioner without any interest. If at all the respondents want to recover any amount from the petitioner, the respondents shall issue show cause notice to the petitioner, conduct enquiry and pass appropriate order, if law permits.



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10.The writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

- 1 THE ADDITIONAL CHIEF SECRETARY TO THE GOVERNMENT HOME (POLICE) DEPARTMENT,
FORT ST.GEORGE,
CHENNAI – 600 009.
- 2 THE PRINCIPAL ACCOUNTANT GENERAL(A&E),
TAMIL NADU,
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