



W.P.(MD).No.12819 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.12819 of 2016
and
W.M.P.(MD).No.9692 of 2016**

- 1.R.Raja
- 2.R.T.Parimanam
- 3.B.Palanivel
- 4.S.Damaodaran
- 5.D.Balaji
- 6.M.Gowthaman
- 7.M.R.Suresh
- 8.R.Ravichandran
- 9.K.Ramesh Babu
- 10.K.Kannusamy
- 11.G.Rathinavel
- 12.R.Gnanavel
- 13.M.Sekar
- 14.P.Kumar



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15.S.Lakshmikanthan

16.C.Poosaimani

17.G.Vairavel

18.K.Selvaraju

19.K.M.Anguraj

20.P.Kandasamy

21.S.Saravanan

... Petitioners

Vs.

1.The Principal Secretary to the Government,
Government of Tamil Nadu,
Finance (Pay Cell) Department,
Fort St.George,
Chennai – 9.

2.The Director of Municipal Administration,
Chepakkam,
Chennai – 5.

3.The Director of Local Fund Audit,
Kurazhagam, Chennai – 108.

4.The Commissioner,
Tiruchirapalli City Municipal Corporation,
Tiruchirapalli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the fourth respondent proceedings in Na.Ka.No.E6/388/2016/(Maiyam) dated 17.06.2016 and quash the same.



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For Petitioners : Mr.P.Arun Jayatram

For Respondents : Mr.R.Baskaran,
Additional Advocate General,
Assisted by,
Mr.M.Lingadurai,
Special Government Pleader.

ORDER

This Writ Petition is filed to quash the order dated 17.06.2016.

2. The petitioners are working in the fourth respondent Corporation. The fourth respondent has passed the impugned order and also directed to recover the revised scale of pay. The first respondent Government implemented the Sixth Pay Commission recommendation through the Tamil Nadu Revised Scales of Pay Rules, 2009. However, while categorizing the skilled and unskilled labourers, the respondents Government has not applied the scientific method. A similar issue was raised before this Court in W.P.(MD)No.669 of 2018 and the learned Single Judge vide order dated 19.11.2021 has held as under:

“47. For a decision on whether the re-fixation is proper, the 2010, 2012 and 2015 proceedings are to be reconciled. A copy of audit objection has not been placed on file. However, proceedings dated 21.05.2015 refers to the



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objection to the effect that some certain posts classified under the category 'other trade posts' (unskilled) in the annexure to the 2012 letter cannot be considered as technical posts as they do not involve technical skill and therefore, higher category of pay cannot be granted to such categories.

48.While exercise of determining the appropriate categorization of posts is entirely within the domain of the State, such categorization must be seen to be based on proper and appreciable differentia. A comparison of the categorization of 'other trade posts' in proceedings dated 01.10.2012 and Annexure -B of proceedings dated 21.05.2015 would show that not all the posts differentiated as 'other trade posts' have been denied the effect of the pay enhancement.

49.Sixty nine (69) trade posts are covered in proceedings dated 01.10.2012 and 36 stand excluded in 2015.Upon a comparison of the two lists, I find that among those retained in the technical trade posts in the category of 'cleaners' are fountain cleaner, motor cleaner, pipe line cleaner, pump cleaner, pump house cleaner, reservoir cleaner, and filter beed cleaner, whereas tank cleaner, drain cleaner, silt pucket cleaner and lorry cleaner have been excluded.

50.Then again while tank watchman, park watchman, head works watchman, reservoir watchman, spring watchman, water supply watchman, thoppu watchman, market watchman, bus stand watchman, boarding & lodging watchman, weekly market watchman, kalyana mandapa watchman and TB watchman stand excluded, borewell watchman and pump house watchman continue to have the benefit of increased pay.

51.I am thus, at a loss to understand the basis of differentiation within the two categories as above. To my mind, the exercise has been done mechanically simply



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following the audit objection and this is arbitrary. The respondents must apply their minds in a proper, scientific manner in the categorization of posts as 'skilled' and 'unskilled' prior to arriving at a decision in regard to the exclusions. Let this exercise be done forthwith, bearing in mind the duties and functions performed by all categories of employees in category 5 of proceedings issued in 2012. Impugned order dater 30.10.2017, not being based upon proper categorization of the trade/non-trade posts is set aside qua the aspect of re-fixation of pay".

3. Following the aforesaid judgment, another learned Single Judge has passed an order dated 28.02.2023 in W.P.(MD)Nos.6705 of 2020 etc. batch. The aforesaid two orders directed the respondents to apply scientific method to categorize the skilled and unskilled labours. The respondents have mechanically followed the orders without scientifically categorizing the skilled and unskilled labours.

4. Therefore, this Court is of the considered opinion that the mechanical categorizing, is illegal. Therefore, this Court by following the earlier judgments referred supra, is inclined to allow this Writ Petition in the above terms. Hence, the impugned order is quashed. After categorizing, whatever benefits accrued to the petitioners, the same shall be disbursed to the petitioners.



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5. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

02.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

- 1.The Principal Secretary to the Government,
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Finance (Pay Cell) Department,
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Chennai – 9.
- 2.The Director of Municipal Administration,
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S.SRIMATHY, J.

Nsr

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