

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.05.2016

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDHARAN

W.P.Nos.17686 to 17688 of 2016

and

W.M.P.Nos.15392 to 15394 of 2016 in W.P.No.17686 of 2016

and

W.M.P.Nos.15395 to 15397 of 2016 in W.P.No.17687 of 2016

and

W.M.P.Nos.15398 to 15400 of 2016 in W.P.No.17688 of 2016

A.Moorthy ... Petitioner in W.P.No.17686/2016
M.Murugesan ... Petitioner in W.P.No.17687/2016
K.Bagyalakshmi ... Petitioner in W.P.No.17688/2016

Vs.

1. The Commissioner,
Tiruppur City Municipal Corporation,
Tiruppur-641 604.
2. The Commissioner of Municipal Administration,
Chepauk, Chennai-5.
3. The Secretary to Government,
Municipal Administration and Water Supply
Department, Secretariat,
Chennai-9. ... Respondents in all W.Ps.

Writ Petitions are filed under Article 226 of the Constitution of India to India for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned show cause notice issued by the 1st respondent in Na.Ka.No.C1/426/2016 dated 20.4.2016 and quash the same and consequently, direct the respondents to sanction the time scale of pay to the petitioner as fixed by the 1st respondent in Na.Ka.No.C1/2204/2014, dated 2.7.2014 and Na.Ka.No.C1/2207/2014, dated 23.7.2014 and Na.Ka.No.C1/2205/2014, dated 8.8.2014 in accordance with the orders issued in Govt. Letter No.63305/Pay Cell/2010-1, Finance Department, dated 8.11.2010.

For Petitioners : Mr.T.Ranganathan
For 1st Respondent : Mr.S.Silambanan
Senior Counsel
for M/s.P.Shanthi

For respondents 2 and3 : Mr.R.Vijaya Kumar,
Additional Government Pleader

C O M M O N O R D E R

The Writ Petitions have been filed challenging the impugned show cause notice issued by the 1st respondent in Na.Ka.No.C1/426/2016 dated 20.4.2016 and quash the same and consequently, direct the respondents to sanction the time scale of pay to the petitioner as fixed by the 1st respondent in Na.Ka.No.C1/2204/2014, dated 2.7.2014 and Na.Ka.No.C1/2207/2014, dated 23.7.2014 and Na.Ka.No.C1/2205/2014, dated 8.8.2014 in accordance with the orders issued in Govt. Letter No.63305/Pay Cell/2010-1, Finance Department, dated 8.11.2010.

2. The petitioners were appointed initially as Wireman Helpers in Tiruppur Municipality in the year 1990 and 1991 respectively based on their qualification of ITI Trade Certificate. Their services were also regularised in the post of Wireman Helper from the date of their appointment. On completion of 10 years in the same post, they were granted selection grade in the same post. They have also acquired Diploma in Civil Engineering.

3. According to the Tamil Nadu Municipal Engineering and Water Works Service Rules, 1970, the post of 'Wireman Helper' is classified under Class VIII against category 9, as amended in G.O.Ms.No.166, MAWS Department, dated 29.06.1999 and the said post has been reclassified as 'Skilled Assistant Grade-II' as per the Tamil Nadu Municipal Corporation Service Rules issued in G.O.(Ms.) No.237, MAWS Department, dated 26.09.1996, when the Municipality has become Corporation on 01.01.2008.

4. Further, as per the orders issued by the Government in G.O.Ms.No.234, Finance (PC) Department, dated 01.06.2009, the pay scale to the post of Wireman Helper (Ordinary Grade) was revised as Rs.4800-10000 with Grade Pay of Rs.1650/- w.e.f. 01.01.2006. Subsequently, based on their representation to the One Man Commission, the pay scale of Wireman Helper was further revised as Rs.5200-20200 with Grade Pay Rs.1900/- w.e.f. 01.01.2006. This was also confirmed by the Director of Municipal Administration in Letter Na.Ka.No.45529/F3 dated 01.10.2012. Based on the orders issued by the Government in

Letter No.63305/Pay Cell/2010-1, Finance Department, dated 08.11.2010, the Commissioner, Tiruppur City Municipal Corporation have properly issued orders in his proceedings in Na.Ka.No.2204/2014 dated 02.07.2014, Na.Ka.No.C1/2207/2014, dated 23.7.2014 and Na.Ka.No.C1/2205/2014, dated 08.08.2014 respectively refixed the pay of the petitioners in the post of Wireman Helper now redesignated as Skilled Assistant Grade II.

5. While so, the 1st respondent has now issued the show cause notice for stepping down the petitioner on an erroneous presumption that the petitioner is in the ordinary grade of Skilled Assistant Grade-II and therefore, they are not eligible for the revised scale of pay, namely, Rs.9300-34800 with Grade Pay of Rs.4200/- without noticing the fact that the petitioners are in the Selection Grade Post of Skilled Assistant Grade II Category. Hence the present Writ Petitions.

6. Heard Mr.T.Ranganathan, learned Counsel for the petitioners and Mr.S.Silambanan, learned Senior Counsel appearing for the 1st respondent and Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents 2 and 3 and I have also perused the records carefully including the impugned show cause notice of the 1st respondent dated 20.04.2016.

7. At the outset, it is not in dispute that the petitioners were initially appointed as Wireman Helper during the year 1990 and 1991 respectively. It is also not in dispute that now they have completed nearly 20 years in that post and granted selection grade. According to them, as per the Tamil Nadu Municipal Engineering and Water Works Service Rules, 1970, the post of 'Wireman Helper' is classified under Class VIII against category 9 as amended in G.O.Ms.No.166 MAWS Department dated 29.06.1999 and the said post has been reclassified as 'Skilled Assistant Grade-II' as per the Tamil Nadu Municipal Corporation Service Rules issued in G.O. Ms.No.237, MAWS Department, dated 26.09.1996. Accordingly and as per the recommendation of the One Man Commission, their pay scales have been revised. But the 1st respondent has now issued the show cause notice stepping down the petitioners in the ordinary grade of Skilled Assistant Grade II.

8. In this regard, it is relevant to note that the Director of Local Fund Audit has pointed out that certain posts classified under the category of the 'other trade posts' (unskilled) in the Annexure to the letter of the Director of Municipal Administration, Chempauk, Chennai in Roc.No.45529/F3/2010-1 dated 01.10.2012 could not be considered as technical posts as they do not involve any technical skill and therefore, higher scale of pay could not be allowed to such non-technical categories. Here, in this case, a perusal of the

said letter would go to show that the post of Wire Man Helper also comes under such category. Hence, the 1st respondent has issued the impugned show cause notice to the petitioners.

9. In view of all the above, these Writ Petitions are dismissed with liberty to the petitioners to approach the 1st respondent with an explanation to the show cause notice in Na.Ka.No.C1/426/2016 dated 20.04.2016, within 15 days from the date of receipt of a copy of this Order and thereafter the 1st respondent should pass orders on the same as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner,
Tiruppur City Municipal Corporation,
Tiruppur-641 604.
2. The Commissioner of Municipal Administration,
Chepauk, Chennai-5.
3. The Secretary to Government,
Municipal Administration and Water Supply
Department, Secretariat, Chennai-9.

W.P.Nos.17686 to 17688 of 2016

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srg 13/06/2016

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