



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2016

CORAM :

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD)Nos.22118 to 22121 of 2016
and WMP(MD)Nos.15034 to 15837 of 2016

G.Murugan Kanagaraj	... Petitioner in WP(MD)No.22118/2016
R.Sornam	... Petitioner in WP(MD)No.22119/2016
M.Arumugam	... Petitioner in WP(MD)No.22120/2016
S.Rajendran	... Petitioner in WP(MD)No.22121/2016

Vs.

1.The Commissioner,
Tirunelveli Municipal Corporation,
Tirunelveli.

2.The Assistant Commissioner,
Palai Ward Office,
Tirunelveli Corporation,
Tirunelveli.

... Respondents in all W.Ps.

Petitions filed under Article 226 of the Constitution of India, praying for issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned Proceedings issued by the 2nd Respondent in Na.Ka.No.C1-1-2016 dated 12/07/2016 and to quash the same and consequently directing the Respondents to allow the Petitioner to continue to draw pay scale in the unskilled post as ordered by the 1st Respondent in Na.ka.No.9969/2011/C3 dated 21/04/2012 and as per order issued in G.O.Ms.No.338, Finance (Pay Cell) Department dated 26/08/2010.

For Petitioner : Mr.G.Sankaran
(all W.Ps.)

For Respondents : Mr.Aayiram K.Selvakumar
Government Advocate
(all WPs.)

COMMON ORDER

The proceedings of the Assistant Commissioner, Tirunelveli Corporation/second respondent herein dated 12.07.2016 is under challenge in these writ petitions.



2. Heard the learned counsel for the petitioners and the learned Government Advocate for the respondents. By consent, the writ petitions are taken up for final disposal at the stage of admission.

3. The second respondent has issued the impugned proceedings for revising the pay scale and ordering recovery, which is extracted hereunder:

(Pay Fixed)	(Pay to have been fixed correctly)		
நிர்ணயிக்கப்பட்ட ஊதியம்	நிர்ணயிக்கப்பட வேண்டிய ஊதியம்		
8300	1.8.2010	-	7280
8550	1.7.2011	-	7500
8810	1.7.2012	-	7730
9080	1.7.2013	-	7970
9360	1.7.2014	-	8210
9640	1.7.2015	-	8640
1.7.2016 ல் நிர்ணயம் செய்யப்பட வேண்டிய ஊதியம்	8720 (Pay to be fixed as on 01.07.2016)		

3.1. Recovery of Rs.1,60,610/- at the rate of Rs.3,570/- per month in 45 instalments, starting from July 2016 from each of the four petitioners.

3.2. This order is under challenge in these writ petitions.

4. A perusal of the impugned order would go to show that the order is passed based on audit objections. The order does not indicate what is the audit objection and whether the attention of the petitioners was invited to the portion of the audit objection and what is the objection of the petitioners with regard to the observation made during audit. If notice had been issued to the petitioners, the petitioners would have been in a position to explain whether the audit objection is sustainable or not. No reason has been adduced showing the basis on which the audit objections were accepted by the Municipality.

4.1. As the petitioners have to suffer deduction of Rs.1,60,610/- which represents the pay received for their work, they have a right to express their views and objections. It is settled law that if any decision taken against any person results in civil consequences, then the principles of natural justice ought to be followed. In this case, though civil consequences have ensued, principles of natural justice has not been followed.

5. Therefore, the impugned order passed by the second respondent on 12.07.2016 is set aside and the matter is remitted back to the authority concerned, i.e., Assistant Commissioner, Tirunelveli Corporation/second respondent herein.



The second respondent is directed to issue notice to the petitioners with a copy of the audit objection and to afford opportunity of hearing and then to take a reasoned decision on merits and in accordance with law.

6. The writ petitions are ordered accordingly. No costs. Consequently, WMP (MD) Nos. 15834 to 15837 of 2016 are closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

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TO,

1. The Commissioner,
Tirunelveli Municipal Corporation,
Tirunelveli.

2. The Assistant Commissioner,
Palai Ward Office,
Tirunelveli Corporation,
Tirunelveli.

+4CC to Mr. G. Sankaran, Advocate Sr.No. 71279 to 71282

+4CC to Mr. Aayiram K. Selvakumar, Advocate Sr.No. 71352 to 71355

GJM/SV/MMS/15.2.17-3p-11c

W.P (MD) Nos. 22118 to 22121 of 2016
21.11.2016