



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 02.12.2016

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

WEB COPY

W.P(MD)No.23523 of 2016

S.Tamilselvi

... Petitioner

vs.

1)The Principal Secretary to Government,
& Managing Director,
Tamilnadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai-600 005.

2)The Finance Controller / Joint Secretary to Government,
Finance Department,
Tamilnadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai-600 005.

3)The Secretary,
Tamilnadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai-600 005.

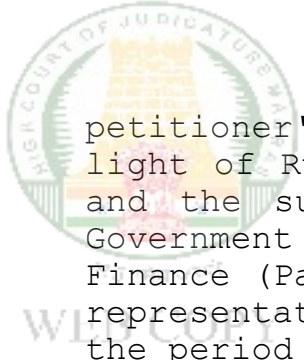
4)The Deputy Director,
Government Statutory Boards Audit,
Tamilnadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai-600 005.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 3rd respondent to refund a sum of Rs.37,809/- recovered from the petitioner's salary bill and the Death cum Retirement Gratuity in the light of Rule 5(3) of Tamil Nadu Revised Scales of Pay Rules, 2009 and the subsequent clarification issued in serial No.3(b)(ii) in Government letter No.45113/Pay Cell/2009-1 dated 17.08.2009 of Finance (Pay Commission) Department by considering the petitioner's representations dated 25.02.2015, 26.11.2015 and 24.11.2016 within the period that may be stipulated by this Hon'ble Court.

For Petitioner : Mr.C.Venkatesh Kumar
For Respondents : Mr.P.Mahendran

ORDER



petitioner's salary and the Death cum Retirement Gratuity, in the light of Rule 5(3) of Tamil Nadu Revised Scales of Pay Rules, 2009 and the subsequent clarification issued in serial No.3(b)(ii) in Government letter No.45113/Pay Cell/2009-1 dated 17.08.2009 of Finance (Pay Commission) Department, by considering the petitioner's representations dated 25.02.2015, 26.11.2015 and 24.11.2016 within the period that may be stipulated by this Court.

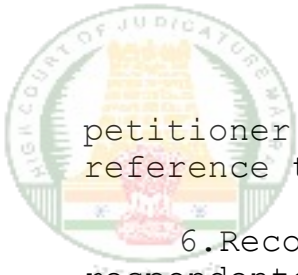
2.The petitioner was appointed as Typist on 08.08.1988 in the 1st respondent department and posted in the office of the Executive Engineer, Tamil Nadu Slum Clearance Board, Madurai. After 18 years of service, she was posted as Assistant on 12.02.2007 and as Superintendent on 29.05.2009. The Government of Tamil Nadu issued G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009, introducing the Tamil Nadu Revised Scales of Pay Rules, 2009 deeming the rules to have come into force notionally on 01.01.2006 with monetary benefit from 01.01.2007. The petitioner opted to fix her pay from 01.06.2006 and based on her option, her pay was fixed in the post of Superintendent at Rs.14,560/-. While so, the pay of her junior by name, Mrs.A.S.Parimala on her option, was fixed with effect from 27.05.2009 at Rs.17,820/- in the pay band of Rs.9,300-34,000 + 4,800 (G.P) and there was anomaly in the fixation of pay resulting in junior getting more pay than the senior.

3.Rule 5(3) of the Tamil Nadu Revised Scales of Pay Rules, 2009, issued in G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009 provides for setting right the anomaly by stepping up the pay of the senior on par with the pay of the junior. Therefore, the petitioner made a representation to step up her pay on par with the pay of her junior Mrs.A.S.Parimala and accordingly, her pay was stepped up in the proceedings of the 3rd respondent dated 02.02.2015 and it was ordered that pay commission arrears paid to the petitioner was to be recovered in ten equal installments as per G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009. Accordingly, it was also recovered.

3.1. Aggrieved by the recovery of pay commission arrears, the petitioner made representations dated 25.02.2015 and 26.11.2016 respectively, seeking to refund the amount recovered. As that representation was not considered, this writ petition has been filed.

4.Though the prayer is widely worded, during the hearing, the learned counsel for the petitioner restricted his relief only seeking direction to the respondents to consider the representations of the petitioner dated 25.02.2015 and 26.11.2016 respectively, and to pass orders within a limited time frame.

5.Learned standing counsel appearing for the respondents would submit that it is agreeable for the 3rd respondent to consider the representations of the petitioner dated 25.02.2015 and 26.11.2016 respectively, and to pass orders. He also submitted that the



petitioner may be directed to submit the relevant documents with reference to her claim.

6. Recording the submission made by the learned counsel for the respondents, the 3rd respondent is directed to consider the representations of the petitioner dated 25.02.2015 and 26.11.2016 respectively, seeking to refund the amount already recovered, and to pass appropriate orders, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. The petitioner is also directed to submit the relevant documents in support of her claim, even if it had been submitted earlier, so as to enable the respondents to comply with the direction of this Court within the stipulated time.

With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

/True cop/

Sub Assistant Registrar

To

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& Managing Director,
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4) The Deputy Director,
Government Statutory Boards Audit,
Tamilnadu Slum Clearance Board,
No.5, Kamarajar Salai, Chennai-600 005.

- + lcc to Mr.p.Mahendran SR NO 78766
- lcc to Ajmal Associates SR NO 78622
- AAM/7c/3p/10.01.2017

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