



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD) No.1270 of 2014

and

M.P. (MD) No. 2 of 2014

- 1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Rural Welfare Department,
Chennai - 9.
- 2.The District Collector,
Virudhunagar District, Collectorate,
Virudhunagar Town.
- 3.The Assistant Director of Rural Development,
(Village Panchayats) Collectorate,
Virudhunagar Town.
- 4.The Block Development Officer (Village Panchayats),
Narikudi Panchayat Union,
Narikudi,
Thiruchuli Taluk, Virudhunagar District. : Appellants

Vs.

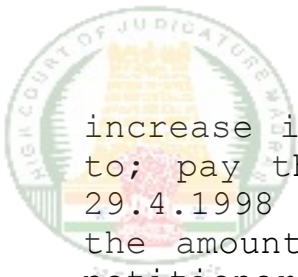
- 1.S.Selvam
- 2.K.Mohan

3.M.Kannapiran : Respondents
(Second Respondent name has been substituted vide order dated 12.09.2014, made in M.P. (MD) No.1 of 2014 in W.A. (MD) SR.No.49162 of 2013 by M.J.J & R.M.D.J)

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, praying to set aside the order passed in W.P. (MD) No.11835 of 2010 on the file of this Court dated 18.04.2013.

Prayer in WP (MD) . 11835/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI FIED MANDAMUS or such other writ, order or direction in the nature of writ by calling for the records of the 4th respondent herein in Na.Ka.Aa1/494/10 dated 22.4.2010 and quash the same in so far as relating to the payment of amount due to 40%



increase in salary and consequently direct the respondents herein to; pay the monitory benefits as stipulated in G.O.Ms.191 dated 29.4.1998 regarding 40% increase in salary and for the payment of the amount due for the period from 1.1.1996 to 31.8.2006 to the petitioners.

WEB COPY

For Appellants

:Mr.M.Murugan

Government Advocate

For Respondents

:Mr.S.Natarajan.

O R D E R

[Order of the Court was delivered by **M.M.SUNDRESH, J.**]

This Writ Appeal has been filed against the order of the learned Single Judge, by which, the Writ petition filed was allowed by setting aside the impugned order dated 22.04.2010, with consequential direction to extend the benefits of Government Order No. 191, dated 29.04.1998, till they are brought under regular time scale of pay pursuant to the order passed in Government Order No.175 dated 05.12.2006.

2. In the Government Order passed in G.O.Ms.No.191, Finance (Pay Cell) Department, the Government directed the employees on consolidated / honorarium / 40% increase in the Fixed Pay as on 01.01.1996. The writ petitioners have been brought to the regular time scale of pay with effect from 01.09.2006. Therefore, they have filed Writ Petitions, seeking the applicability of G.O. Ms.No.191, dated 29.04.1998, from 01.01.1996 to 31.08.2006, challenging the order passed by the learned Single Judge along with the above said writ petition by making the writ petitioner to be entitled to the relief, the present Writ Appeal has been filed.

3.The learned Government Advocate would submit that the learned Single Judge relied upon the earlier order passed by this Court, which has been set aside by the Hon'ble Division Bench of this Court. Hence, the Writ petitioners are not entitled to the relief, more so, when they have been brought under regular time scale of pay, though subsequently.

4. The learned counsel for the respondent / Writ petitioner would submit that what is sought for is the benefit of the Government Order dated 29.04.1998, till the date on which they come into the regular time scale of pay. In other words, the Writ petitioner seeks the benefit, while they were working on a consolidated pay. The Hon'ble Division Bench did not set aside the order of the learned Single Judge, but, in view of the subsequent development of bringing the Village Panchayat Employees into regular time scale of pay, operative portion of the order says that the appeals were allowed.



5. We do not find any merit in this Writ Appeal. Nowhere in the grounds, the benefit of the Government Order dated 29.04.1998, has been specifically stated. The said Government Order does not exclude Panchayat Assistants. Admittedly, the writ petitioners were working as Panchayat Assistants on consolidated payment. They are only seeking a relief for the period till they were brought under the regular time scale of pay. The Hon'ble Division Bench has not gone into the said issue. It merely took note of the subsequent development and allowed the Writ Appeals. It is a settled law that a judgment of the Court cannot be treated like a statute, but has to be applied on the facts of the case.

6. In such way of the matter, we do not find any error warranting interference. Accordingly, this Writ Appeal stands dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu,
Rural Welfare Department,
Chennai - 9.

2. The District Collector,
Virudhunagar District, Collectorate,
Virudhunagar Town.

3. The Assistant Director of Rural Development,
(Village Panchayats) Collectorate,
Virudhunagar Town.

4. The Block Development Officer (Village Panchayats),
Narikudi Panchayat Union,
Narikudi,
Thiruchuli Taluk, Virudhunagar District.

+1cc to Mr. S. Natarajan, Advocate, SR. 64841

+1cc to M/S. Special Government Pleader, SR. 64985

W.A. (MD) No. 1270 of 2014
11.07.2017

MR

KK/SV AA/SAR2/11.08.2017/ 3P- 7C