

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.392 to 407 of 2018 and  
WMP.Nos.447 to 462 of 2018

|                |                            |
|----------------|----------------------------|
| C.Muthu        | ...Petitioner in WP.392/18 |
| A.Sithuraj     | ...Petitioner in WP.393/18 |
| L.Rangasamy    | ...Petitioner in WP.394/18 |
| C.Munusamy     | ...Petitioner in WP.395/18 |
| K.Palanisamy   | ...Petitioner in WP.396/18 |
| K.Raja         | ...Petitioner in WP.397/18 |
| S.Boopathi     | ...Petitioner in WP.398/18 |
| S.Selvam       | ...Petitioner in WP.399/18 |
| K.Palanisamy   | ...Petitioner in WP.400/18 |
| M.Annamalai    | ...Petitioner in WP.401/18 |
| S.Kumar        | ...Petitioner in WP.402/18 |
| M.Gopal        | ...Petitioner in WP.403/18 |
| G.Selvi        | ...Petitioner in WP.404/18 |
| K.Elangovan    | ...Petitioner in WP.405/18 |
| P.DesinguRajan | ...Petitioner in WP.406/18 |
| D.SithuRaj     | ...Petitioner in WP.407/18 |

Vs

The Executive Officer  
Edanganasalai First Grade Town Panchayat,  
Sangagiri Taluk, Salem District. ...Respondent in All WPs

Common Prayer:Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the respondent dated 18.12.2017 issued in Na.Ka.No.408/2017/A1 and quash the same and consequently, restore pay to the petitioner as per the proceedings of the respondent dated 08.04.2013 issued in Na.Ka.No.79/2012 by refunding the already recovered amount from the petitioner, if any, till the restoration.

For Petitioner:: Mr.P.I.Thirumoorthy  
in All WPs

For Respondent:: Mr.V.Jayaprakash Narayanan,  
Special Government Pleader  
in WP.392 & 393/18

Mr.V.Kadhirvelu SPL GP for  
Respondent in WP 394 & 395/18

Mr.R.Govindasamy SPL Govt Pleader  
in WP.396 & 397/18

Mr.V.Balamurugan SPL Govt Pleader  
for Respondent in 398 & 399/18

Mr.C.Thirumaran SPL Govt Pleader  
for Respondent in WP.400 & 401/18

Mr.N.Sakthivel Government Advocate  
in WP.402/18

Mr.R.S.Selvam Government Advocate  
for Respondent in WP.No.403/18

Mr.V.Prabhu Government Advocate  
for Respondent in WP.No.404/18

Mr.K.T.Devendran Government  
Advocate for Respondent in  
WP.405/18

Mr.D.Surya Narayanan AGP for  
Respondent in WP.406/18

Mr.A.Jothikumar For Respondent in  
WP.407/18

COMMON ORDER

Challenging the proceedings of the respondent dated 18.12.2017 issued in Na.Ka.No.408/2017/A1, the present Writ Petitions have been filed.

2. According to the petitioners, they were all appointed regularly to the sanctioned regular vacancies of Over Head Tank Operator, Electrical Work Assistant and Motor Operator respectively in the years 1999, 2001 and 2012. The said posts come under the category of Group D and subsequently, they were all brought under the consolidated pay by the respondent after the completion of 3 years from their initial service. While so, the Government of Tamil Nadu implemented the One Man Commission Recommendations vide G.O.Ms.No.338, Finance (Pay Cell) Department, dated 26.8.2010 by categorizing the Trade Posts as Supervisor, Special Artisan, Skilled Assistant Grade I, Skilled Assistant Grade II and other Trade Posts (unskilled) and revising the pay structures. Subsequently, the Government in

his letter dated 13.01.2011 clarified that the above said Government Order would be applicable to the skilled and unskilled employees working in the Local Bodies also. Since the posts of Over Head Tank Operator, Electrical Work Assistant and Motor Operator respectively come under the category of other trade posts, the pay of the petitioners were correctly fixed in terms of G.O.Ms.No.338 w.e.f. 1.1.2006 as Rs.5200-20200+1900 by the respondent by his proceedings dated 8.4.2013 in Na.Ka.No.79/2012 and the petitioners were paid the difference of arrears of pay also. Subsequently, their pay was further revised as per the aforesaid Government Order. The learned Counsel further submitted that all of a sudden, based on audit objection for the year 2016-17, the respondent in his proceedings dated 18.12.2017, passed the order of cancellation of earlier pay fixation dated 8.4.2013 and consequently, ordered to recover the alleged excess pay paid to the petitioners. Now the grievance of the petitioners is that without giving any notice calling for explanation from the petitioners, the impugned order came to be passed. Therefore, the same is liable to be dismissed.

3. Heard the learned Counsel for the petitioners and the learned respective Government Counsels appearing for the respondent.

4. A perusal of the records would go to show that the Government of Tamil Nadu implemented the One Man Commission Recommendations vide G.O.Ms.No.338, Finance (Pay Cell) Department, dated 26.8.2010 by categorizing the Trade Posts as Supervisor, Special Artisan, Skilled Assistant Grade I, Skilled Assistant Grade II and other Trade Posts (unskilled) and revising the pay structures. Subsequently, the Government in his letter dated 13.01.2011 clarified the same that the posts of Over Head Tank Operator, Electrical Work Assistant and Motor Operator respectively come under the category of other trade posts. Based on the said clarification, the pay of the petitioners were correctly fixed in terms of G.O.Ms.No.338 w.e.f. 1.1.2006, by proceedings dated 8.4.2013 in Na.Ka.No.79/2012 and the difference amount was claimed and paid to the petitioners. While so, it appears that based on audit objection for the year 2016-2017, the order of recovery dated 18.12.2017 has been passed against the petitioners without giving any notice whatsoever to them to submit their explanations which is a gross violation of the principles of natural justice. Therefore, this Court is of the view that the impugned proceedings of the respondent dated 18.12.2017 has to be set aside.

5. At this stage, the respective learned Government Counsels appearing for the respondent sought for liberty to proceed against the petitioners.

6. In that view of the matter, the petitioners are directed to treat the impugned proceedings dated 18.12.2017 as a Show Cause Notice and they are further directed to submit their explanations within three weeks from the date of receipt of a copy of this Order and on receipt of the same, it is for the respondent to pass a speaking order, within a period of four weeks thereafter.

7. With the above directions, the Writ Petitions stand allowed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Executive Officer,  
Edanganasalai First Grade Town Panchayat,  
Sangagiri Taluk, Salem District.

+16 ccs to Mr.P.I.Thirumoorthy Advocate sr 1785

+1 cc to Mr.R.S.Selvam Govt Advocate sr 2101

W.P.Nos.392 to 407 of 2018

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