

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.10.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 2747 of 2016
W.M.P.No.2289 of 2016

A.Nirmala

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Petitioner

- vs -

1. The District Collector,
Kancheepuram District,
Kancheepuram.

2. The Assistant Director of Rural Development (Audit),
Kancheepuram.

3. The Commissioner,
Panchayat Union Uthiramerur,
Uthiramerur.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the order bearing Na.Ka.No.162/2012/A2 dated 06.04.2015 of the third respondent herein and quash the same.

For Petitioner : Mr.V.Suthakar

For Respondents : Mr.A.Ansar

Government Advocate for R1 & R2
A.Rajaperumal for R3

O R D E R

The order dated 06.04.2015 imposing recovery on the writ petitioner is under challenge in this writ petition.

2. The recovery was imposed based on the audit objections in respect of the disbursement of increments to the writ petitioner.

3. The learned counsel appearing on behalf of the writ petitioner brought to the notice of this Court that the Government issued a clarification in letter No.16115/CMPC/2018-

1, dated 25.05.2018, Finance Department stating as follows in para No.6 (i) (ii):

"6.The following clarification on the paragraph 5 on the Government Order 4th cited are issued:-

(i) Graduate Typists / Junior Assistants / Record Clerks who have joined / have been appointed prior to 01.04.2013 shall be entitled to higher start of pay, irrespective of the date of sanction of higher start of pay, if other required conditions are satisfied.

(ii) Junior Assistants / Typists / Record Clerks who were appointed after 01.04.2013 are not entitled to higher start of pay even if they have been sanctioned a higher start of pay for the possession of degree qualification prior to the issue of the Government Order. The Government Order only stipulates that recovery of payment already made need not be effected. Therefore, the pay of such individuals at the time of appointment are required to be re-fixed at the minimum of pay band (Pay + Grade Pay) of the respective post."

4. The learned counsel for the petitioner states that in view of the clarification issued by the Government, the case of the writ petitioner deserves consideration and the order impugned is to be scrapped.

5. In view of the clarification issued by the Government, this Court is of an opinion that the case of the writ petitioner is to reconsidered in the light of the Government Orders, accordingly, the impugned order passed by the Commissioner, Uthiramerur Panchayat Union, in proceedings Na.Ka.No.162/2012/A2 dated 06.04.2015 is quashed. The matter is remanded back to the respondents for reconsideration and to pass orders within a period of 8 weeks from the date of receipt of a copy of this order.

6. Accordingly, the present writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

pns

To

1. The District Collector,

Kancheepuram District,
Kancheepuram.

2. The Assistant Director of Rural Development (Audit),
Kancheepuram.

3. The Commissioner,
Panchayat Union Uthiramerur,
Uthiramerur.

+1cc to Mr.V.Suthakar, Advocate SR.No.74939

+1cc to Government Pleader SR.No.75855

W.P.No. 2747 of 2016
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SPD (CO)

GMV (28/11/2018)



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