

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 24.06.2019

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM**

WEB COPY

W.P. (MD) No. 10658 to 10660 & 10702 to 10705 of 2015
and
M.P. (MD) Nos. 1 & 2 of 2015 in all W.Ps.

P.Jeyakumar

S/o.S. Paul Pandian, 50-A, Amman Kovil North Street,
Pallavilai, Veturnimadam (Post), Nagercoil-3, Kanayakumari District.
... Petitioner in WP(MD). 10658/ 2015

Sivanatha Nair,

S/o Appukuttan Nair, 40a/5-236 Pallivilai,
Veturnimadam, Nagercoil 3

... Petitioner in WP(MD). 10659/ 2015

Vaikunda Mani,

S/o. Ramaya Nadar, Mulachen Vilai,
Aloor Post, Kanyakumari District.

... Petitioner in WP(MD). 10660/ 2015

Alexsander

S/o M.Kumarakan, 6-102-D, Dev Cottage
Mundapattu nadu vilai, Mulagumoodu, Mulagumoodu Post,
Kanyakumari District.

... Petitioner in WP(MD). 10702/ 2015

L.Manivel

S/o Lekshmana Nadar, 45/a, Ground Street,
Vatheryar Vilai, Nagercoil, Kanayakumari District.

... Petitioner in WP(MD). 10703/ 2015

H.Thanga Durai,

S/o Ahiraman Nadar, Keezhachattuvam Thoppu,
Rajakkamangalam, Kanyakumari Dist.

... Petitioner in WP(MD). 10704/ 2015



L. Krishna Kumar,
S/o Lakshmi Narayana Pillai,
4.1, Vellalar Theru, Vadasery, Nagercoil - 3,
Kanyakumari District.

... Petitioner in WP(MD). 10705/ 2015

Vs. -

1. The Principal Secretary To Government
Finance (Pay Cell) Department Government of Tamil Nadu
Fort St. George, Chennai.
2. The Director of Municipal Administration,
Chepauk, Chennai-5.
3. The Municipal Commissioner
Nagercoil Municipality, Nagercoil.

... Respondents in all the Writ Petitions

Prayer in WP(MD). 10658/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to Rc.Lr.No.45529/F3/2010 dated 21.5.2015 of the 2nd respondent and quash the same and render justice.

Prayer in WP(MD). 10659/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to Rc.Lr. No. 45529/F3/2010 dated 21.05.2015 of the 2nd respondent and quash the same and thus render justice.

Prayer in WP(MD). 10660/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to Rc. Lr. No. 45529/F3/2010 dated 21.05.2015 of the 2nd Respondent and quash the same.

Prayer in WP(MD). 10702/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to the Rc.Lr.NO. 45529/F3/2010 dated 21.05.2015 of the 2nd respondent and quash the same.

<https://hcservices.ecourts.gov.in/hcservices/>
Prayer in WP(MD). 10703/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to the Rc.Lr.NO.



45529/F3/2010 dated 21.05.2015 of the 2nd respondent and quash the same.

Prayer in WP(MD). 10704/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to the Rc.Lr.NO. 45529/F3/2010 dated 21.05.2015 of the 2nd respondent and quash the same.

Prayer in WP(MD). 10705/ 2015 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records relating to the Rc.Lr.NO. 45529/F3/2010 dated 21.05.2015 of the 2nd respondent and quash the same.

(In all W.Ps)

For Petitioner : Mr.C.Godwin

For R1 and R2 : Mr.S.Dhayalan
Government Advocate

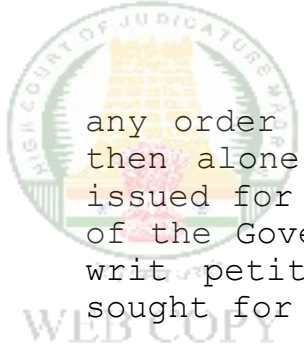
For R3 : No appearance

COMMON ORDER

The circular issued by the Director of Municipal Administration, Chepauk, Chennai-05 to all the Municipal Commissioners and All Regional Directors of Municipal Administration in Proceedings dated 21.05.2015 regarding the redesignation of Technical categories (Trade Posts) is under challenge in the present writ petition.

2. The learned counsel appearing on behalf of the writ petitioners states that these writ petitioners were appointed as Gardner in Nagercoil Municipality and they are fully qualified for appointment in the said post. On account of the pay anomaly arose while implementing fifth Pay Commission recommendation, the Government appointed One Man Commission to examine the anomaly and accordingly, the report was submitted by the One Man Commission. The recommendations were made to merge the unskilled and semiskilled workers. The One Man Commission considered the request of the Technical employees appointed with I.T.I. certificate/practical experience in the respective trades and recommended to regularise revision of their scale of pay and change of nomenclature of the post. Setting out all these factors, the learned counsel for the writ petitioners states that the re-designation of technical categories and revision of scale of pay granted are improper and not in accordance with law.

3. This Court is of the considered opinion that the circular challenged is an internal communication shared between the Director of Municipal Administration with all his Subordinates. If at all



any order affecting the rights of the writ petitioners are passed, then alone, they can file the writ petition. Such common circular issued for the purpose of implementation of certain policy decisions of the Government cannot be challenged by way of writ petition. The writ petitioners are bound to establish the grievances as such sought for in the present writ petitions.

4. A perusal of the impugned circular dated 21.05.2015, it is clearly stated that consequent to the re-designation of various technical categories (Trade Post) and revision of scale of pay ordered in G.O.No.338, Finance(PC) Department, dated 26.08.2010 instructions were issued in letter dated 01.10.2012 re-designating the various technical categories in municipality and to refix the scale of pay of such post.

5. The details of the various categories and revised scale of pay was furnished in the Annexure to the letter dated 01.10.2012. In continuation of the Government Order as well as the Government letter the impugned order has been passed stating that further categories and other Trade posts are also required to be added in the annexure. Accordingly certain posts, which were included under the category "Other Trade Post" in the annexure to the letter dated 01.10.2012 are deleted in the impugned order from the list and revised list of post termed with "other trade post" is now communicated in the annexure enclosed to the impugned circular dated 21.05.2015.

6. Redesignation of posts is an administrative decision taken by the competent authorities. Redesignation of various posts are the policy decision of the Government. Re-fixation of scale of pay with reference to the Rules and Government Orders are the prerogative of the administration. If at all any anomaly or discrepancy or violation of Rules then alone the writ petitioners are entitled to adjudicate the same in the manner known to law.

7. Thus, the writ petitioners are bound to establish their legal rights in respect of redesignation of posts and categories. In the absence of any such legal rights, no writ can entertain for the purpose of granting the relief as such sought for in the present writ petitions. The writ petitioners on hand are unable to establish any specific grievance in respect of violation of service conditions or infringement of rights or violation of pay Rules or other statutory rules in force. In the absence of any such grievance, specifically the circular or the statutory rules in force, the Circular now challenged cannot be considered at all. Even in such cases, where the circulars are under challenge, the writ petitioners have to establish the consequential orders passed affecting their service rights or conditions of service. This being the legal principles to be followed, if at all the writ petitioners are having any grievance regarding the violations of their service conditions then alone they are at liberty to approach the competent authorities for the purpose of redressal of their grievance.



8. With these observations, these Writ Petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

ASSISTANT REGISTRAR (AD II)

SUB ASSISTANT REGISTRAR (CS)

Ls/Am

To

1. The Principal Secretary to Government,
Finance (Pay Cell) Department,
Government of Tamilnadu,
Fort St. George, Chennai.
2. The Director of Municipal Administration,
Chepauk, Chennai-5.
3. The Municipal Commissioner,
Nagercoil Municipality,
Nagercoil.

2CC'S TO MR. C. GODWIN, ADVOCATE SR 71090 & 71091

1CC TO THE SPL GOVT PLEADER SR 71117

TR

16/07/2019

5P/7C

**W.P. (MD) No. 10658 to 10660 &
10702 to 10705 of 2015**

24.06.2019