



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **01.08.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **D. KRISHNAKUMAR**

WP(MD)No.14205 of 2016 and

WMP(MD).Nos.10540 and 10541 of 2016 and 21003 of 2018

V. Manikandan

... Petitioner

Vs.

1.The State of Tamil Nadu rep. by
the Principal Secretary to Government,
Public Works Department,
St. George Fort, Chennai - 600 009.

2.The Engineer in Chief(General),
Public Works Department,
Chepauk, Chennai - 600 005.

3.The Executive Engineer,
Public Works Department,
Water Resource Organization,
Periyar Vaigai Basin Division,
Madurai - 625 002.

4.The Assistant Executive Engineer,
Public Works Department,
Water Resource Organization,
Periyar Vaigai Basin Division,
Madurai - 625 002.

5.The Principal Accountant General (A & E),
Teynampet, Chennai - 600 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order passed by the 4th respondent in proceedings Se.Mu.Ka.No.E1/Ko.6/2016-1/Asst Executive Engineer 1 / dated 14.07.2016 and further issued a recovery order in his proceedings Ka.No.E1/Ko.2/2016 / 664 , dated 25.07.2016 and quash the same and consequently, direct the respondents to extent the benefits of the Judgment, dated 10.06.2013 made in WP.No.13833 of 2013 and to grant all retirement benefits to the petitioner and to pay the pension within a stipulated



time may be fixed by this Court.

For Petitioner : Mr.M. Saravanakumar
For R1 to R4 : Mr. Aayiram K. Selvakumar
Additional Government Pleader

For R5 : Mr.P. Gunasekaran

ORDER

This Writ Petition has been filed to quash the impugned order passed by the 4th respondent in proceedings Se.Mu. Ka. No.E1 / Ko.6 / 2016-1/ Asst Executive Engineer - 1, dated 14.07.2016 and further issued a recovery order in his proceedings in Ka.No.E1/Ko.2/ 2016 / 664, dated 25.07.2016 and consequently, direct the respondents to extent the benefits of the Judgment, dated 10.06.2013 made in W.P.No.13833 of 2013 and to grant all retirement benefits with interest and to pay the pension, within the time frame to be fixed by this Court.

2. The petitioner has challenged the impugned recovery order passed by the 4th respondent on the ground that the aforesaid scale of pay 4800-10000 + GP 1300 fixed to the petitioner on 19.10.2007 and thereafter, they have passed the impugned recovery proceeding against him in the year of 2016.

3. At the time of hearing, the learned learned counsel appearing for the petitioner relying upon the decision of the Hon'ble Supreme Court reported in **2015(4) SSC 334 (State of Punjab and others Vs. Rafiq Masih (Whitie Washer) and others** submitted that the salary of the petitioner is fixed in a wrong scale of pay and it is fault committed by the Department and their officers, for which the petitioner should not be penalized after a lapse of number of years, that too, after retirement of the petitioner.

4. In the light of the aforesaid Judgment and in view of the fact that the respondents have not disputed the above legal submissions made by the petitioner, this Court has no hesitation to quash the impugned orders of the 4th respondent and to pass the following order :

(i) The impugned orders passed by the 4th respondent, dated 14.07.2016 and 25.07.2016 are quashed.

(ii) The respondents 2 and 3 are directed to resubmit the pension proposal to the 5th respondent as per Rules as expeditiously as possible, in any event, not later than six weeks from the date of receipt of a copy of this order.

(iii) Thereafter, the 5th respondent shall consider the said proposal and pass appropriate orders in accordance with law of four weeks, thereafter.



5. This Writ Petition is allowed on the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Principal Secretary to Government,
Public Works Department,
St. George Fort, Chennai - 600 009.

2. The Engineer in Chief (General),
Public Works Department,
Chepauk, Chennai - 600 005.

3. The Executive Engineer,
Public Works Department,
Water Resource Organization,
Periyar Vaigai Basin Division,
Madurai - 625 002.

4. The Assistant Executive Engineer,
Public Works Department,
Water Resource Organization,
Periyar Vaigai Basin Division,
Madurai - 625 002.

5. The Principal Accountant General (A & E),
Teynampet, Chennai - 600 018.

+1 CC to M/s.M.SARAVANA KUMAR, Advocate (SR-79315[F] dated 02/08/2019)

+1 CC to M/s.SPL GP (SR-79447[F] dated 02/08/2019)

+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-79812[F] dated 05/08/2019)

trp

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