

IN THE HIGH COURT OF JUDICATURE AT MADRAS

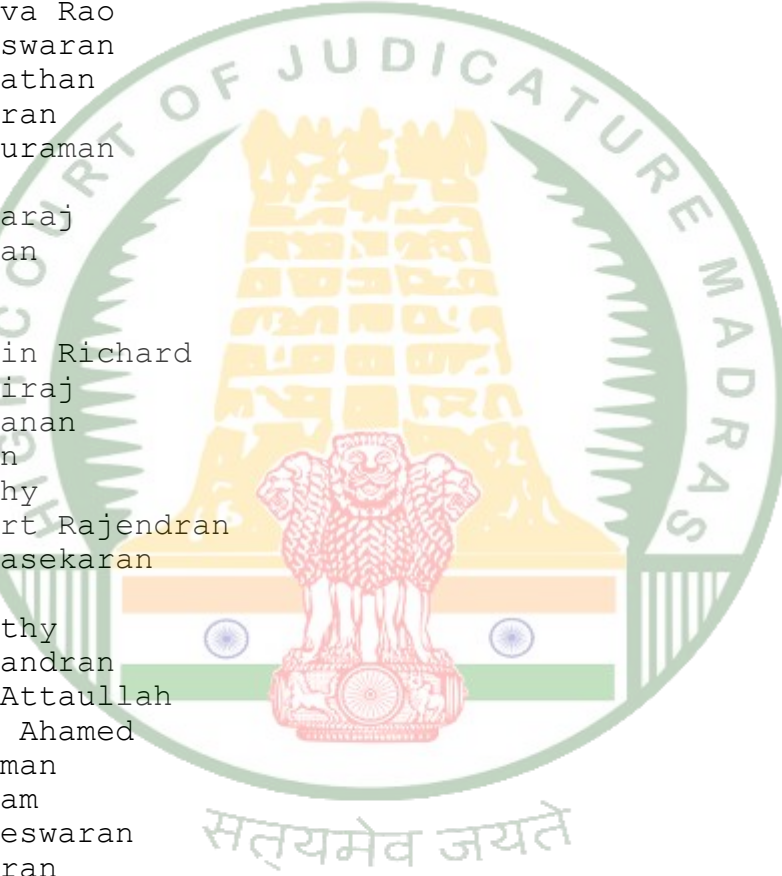
DATED: 03.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition No.23382 of 2013

1. S.Selvam
2. S.M.Durairaj
3. B.Gunasekaran
4. R.Mahadeva Rao
5. S.Parameswaran
6. S.Manjunathan
7. P.Bhaskaran
8. N.L.Sethuraman
9. D.Kumar
10. A.Irudayaraj
11. B.V.Kannan
12. A.Ghayas
13. K.Selvam
14. D.Benjamin Richard
15. J.Mahimairaj
16. V.Lakshmanan
17. R.Vijayan
18. S.Boopathy
19. N.S.Albert Rajendran
20. S.Chandrasekaran
21. M.Elango
22. M.Ganapathy
23. S.Ravichandran
24. Mohamed Attaullah
25. S.Jameel Ahamed
26. B.Gowthaman
27. V.Sundaram
28. E.Jagadeeswaran
29. M.Manoharan
30. H.M.Abdul Hameed
31. V.Krishnamoorthy
32. B.Murugesan
33. A.M.Puvaneswaran
34. K.Selvam
35. Y.S.Ravindran
36. V.K.Logarajan
37. K.Ganesan
38. P.Rajendran
39. D.Younuskhan
40. G.Kannan
41. V.Rajendran



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42. K.Ethirajulu
43. Dasari Jayapal
44. T.M.Sekar
45. R.Danusuvel
46. S.Uma Sekar
47. B.Manoharan
48. S.Ravindran
49. V.S.Nagarajan
50. S.Gopinath
51. R.Parthiban
52. S.Mohan
53. A.Kalai Selvan
54. G.Jothi
55. M.Shanmugam
56. D.Earnest
57. C.Morries
58. K.Ganesan
59. S.John Selvaraj
60. S.Shaik Usman
61. V.Ethiraj
62. M.Ruthramoorthy
63. N.Kasinathan
64. D.Abdullakhan
65. N.Murugesan
66. M.M.Thambiraja
67. A.Chan Basha
68. A.Sundarrajan
69. Y.Lawrence Navaranji

... Petitioners

vs.

1. The Secretary to Government,
Municipal Administration &
Water Supply Department,
Fort St. George,
Chennai 600 009.
2. The Secretary to Government,
Finance Department,
Fort St. George,
Chennai 600 009.
3. The Managing Director,
Chennai Metro Water Supply &
Sewerage Board,
No.1, Pumping Station Road,
Chintadripet,
Chennai 600 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for the records pursuant to the impugned order issued by the 1st Respondent in letter No.13149/MW/2012-3, dated 09.10.2012 and in Letter No.26610/MW2/2012-2, dated 04.02.2013 and in Letter No.5189/MW2/2013-2, dated 15.04.2013 and the consequential order issued by the 3rd Respondent in Letter No.CMWSSB/P&A/SR2/52511/2011, dated 05.07.2013 and quash these orders and consequently direct the Respondents to revise the pay of the Petitioners from Rs.4500-125-7000 to Rs.5000-150-8000 on par with Wireman Grade I and Lighting Inspectors in Chennai Corporation with effect from 01.01.1996 notionally and with monetary benefits from 01.09.1998 based on G.O.Ms.No.294 Finance (Pay Cell) Department, dated 10.07.2009.

(Prayer amended as per order dated 27.02.2015 in M.P.No.1 of 2014 in W.P.No.23382 of 2013)

For Petitioners : Mr.R.Prem Narayan
For Respondents 1 & 2 : Mr.S.Thangavel,
Special Government Pleader
For 3rd Respondent : Mr.N.Ramesh

ORDER

According to the Petitioners, they are working in the cadre of Wireman Grade I in Chennai Metro Water Supply & Sewerage Board (CMWSSB) and are performing the duties and responsibilities attached to the Electrical Department of the Board involving heavy duty works.

2. It is stated by the Petitioners that, the pre-revised scale of pay attached to the post of Wireman Grade I was Rs.4000-100-6000 (ordinary grade), Rs.5000-150-8000 (selection grade) and Rs.5,500-175-9000 (Special Grade) and similar pay was granted to the Lighting Inspectors working in Chennai Corporation.

3. The Lighting Inspectors of Chennai Corporation claimed revised pay on par with Wireman Grade I in Chennai Corporation and filed W.P.No.18466 of 2000. This Court directed to revise the scale of pay of Lighting Inspectors on par with Assistant Supervisors or to grant the scale of pay of Rs.5000-8000. The Government considered the issue and issued G.O.Ms.No.294, Finance Department dated 10.07.2009 revising the scale of pay of Lighting Inspectors in Electrical Department of Chennai Corporation from Rs.4000-6000 to Rs.5000-8000 notionally with

effect from 01.01.1996 and the monetary benefits from 01.09.1998. Consequently, their Selection Grade and Special Grade Scale of Pay was also regulated.

4. As similarly placed persons, Petitioners herein made a representation to the 3rd Respondent/Board and the Board considered their claim and passed Resolution No.21/2012, dated 10.05.2012 and submitted their proposal to the Government in Letter dated 18.05.2012 for approval for adoption of the revised scale of pay. Again, the Board recommended their claim in Letter dated 08.11.2012. Further, vide letter dated 04.03.2013, the Board recommended the case of the Petitioners to the Government. In spite of the recommendations by the Board, the 1st Respondent mechanically rejected the claim of the Petitioners vide Letter dated 15.04.2013.

5. Challenging the said rejection order dated 15.04.2013 and the consequential order dated 05.07.2013 passed by the 3rd Respondent and for a consequential direction to the Respondents to revise the pay of the Petitioners from Rs.4500-125-7000 to Rs.5000-150-8000 on par with Wireman Grade I and Lighting Inspectors in Chennai Corporation with effect from 01.01.1996 notionally and with monetary benefits from 01.09.1998 based on G.O.Ms.No.294 Finance (Pay Cell) Department, dated 10.07.2009, Petitioners have come up with the present Writ Petition.

6. Learned counsel for the Petitioners submitted that, the Petitioners are carrying out heavy duty work in High Voltage Power in the Electrical Department of the 3rd Respondent/Board and that, the Lighting Inspectors of Chennai Corporation are performing comparatively light duty. On this ground, learned counsel for the Petitioners contended that, the Petitioners herein are discriminated and that, the impugned order of the 1st Respondent is a non-speaking order.

7. In reply, learned Special Government Pleader appearing for Respondents 1 and 2 submitted that, the CMWSS Board, at the behest of the Government of Tamil Nadu adopts the pay recommended by the Pay Commission to the Government Servants by passing Resolution and that, the scale of pay of the employees of the CMWSS Board are revised only when the Government revises the scale of pay of Government Servants, based on the recommendation of the Pay Commission with or without modification.

8. With reference to the counter Affidavit filed by Respondents 1 and 2, learned Special Government Pleader pointed out that, the Petitioners herein were initially recruited by CMWSS Board as Electrical Pumpsman and the pre-revised scale of pay of Pumpsman is Rs.3050-75-3950-80-4590. The same has been

revised as Rs.5200-20200+1900 (Grade Pay) and that, the Petitioners are working as Selection Grade Electrician. He further submitted that, Electrician had all along been in the group of Technician Grade-I, Fitter, Operator, Diesel Generator, Driver, etc. even in the pre-revised period and there are no deviations from the previous grouping of the categories for a particular scale of pay.

9. Denying the averments of the Petitioners in paragraph 2 of the Affidavit that, they are all working in the cadre of Wireman Grade-I in CMWSS Board, learned Special Government Pleader submitted that, there is no cadre of Wireman Grade-I in CMWSS Board and that, the Petitioners are not Wireman, but they are Selection Grade Electricians. He also pointed out that, street lights are not maintained by the CMWSS Board and that, the Petitioners cannot equate their post to that of Lighting Inspectors in Chennai Corporation and claim similar pay. It is his contention that, the the claim of the Petitioners is beyond 'Regulation', as the post of Wireman and Lighting Inspector do not exist in the CMWSS Board and what was applicable to those categories in the Chennai Corporation cannot be claimed by the Petitioners.

10. Heard the learned counsel on either side and perused the material documents available on record.

11. The issue that arises for consideration is whether the Petitioners are entitled to revised scale of pay on par with Wireman Grade-I and Lighting Inspectors working in Chennai Corporation.

12. Petitioners herein have come up with the present Writ Petition seeking the said relief only on the ground that, the Board has passed a Resolution dated 10.05.2012 vide No.21/2012 and submitted a proposal to the Government in Letter dated 18.05.2012 for approval for adoption of the revised scale of pay on par with the Lighting Inspectors in Electrical Department of Chennai Corporation from Rs.4000-6000 to Rs.5000-8000 notionally with effect from 01.01.1996 and the monetary benefits from 01.09.1998.

13. Initially, the Government rejected the proposal of the Board in toto, stating that, arrears of pay cannot be granted with effect from 01.01.1996. Subsequently, the Board sent another proposal seeking clarification as to whether scale of pay can be revised on par with Wireman Grade I, without granting arrears of pay. Even the said proposal was rejected by the Government.

14. Though the Petitioners herein claim 'equal pay for equal work', the fact remains that, they are presently working in the post of 'Selection Grade Electrician' and posing themselves as Wireman Grade - I, they seek revision of scale of pay on par with the post of Lighting Inspector in Chennai Corporation.

15. Fixation of pay scale is a delicate mechanism which requires various considerations including financial capacity, responsibility, educational qualification, mode of appointment, etc and it has a cascading effect. Furthermore, fixation of pay is purely an executive function of the Government and the Government is bound to maintain equilibrium among the various categories of employees for the smooth functioning of the Government.

16. In the case on hand, the Board's proposal to the Government as regards the claim of the Petitioners herein, had been repeatedly rejected. Had such proposal been pending, this Court, without going into the merits of the case, would have directed the Government to consider the same. But, when the proposal of the Board had been repeatedly rejected by the Government, this Court cannot step into the shoes of the Executive as regards grant of revision of pay scale to the Petitioners herein.

17. Thus, in view of the foregoing, this Court does not find any merit to accept the claim of the Petitioners. Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

1. The Secretary to Government,
Municipal Administration &
Water Supply Department,
Fort St. George,
Chennai 600 009.
2. The Secretary to Government,
Finance Department,
Fort St. George,
Chennai 600 009.

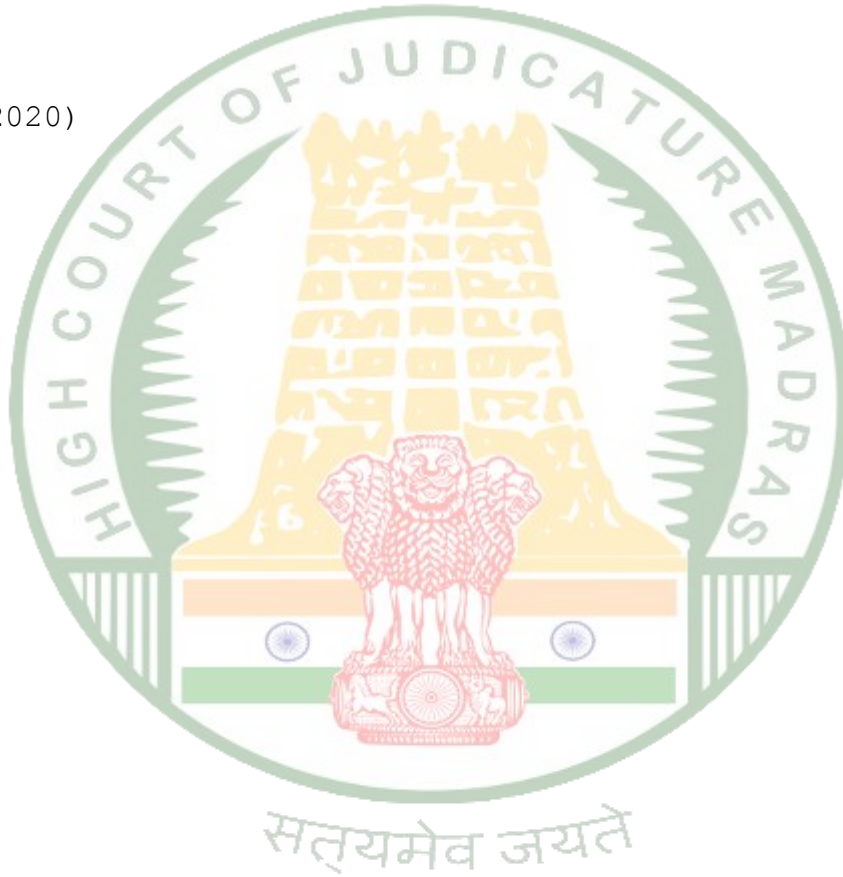
3. The Managing Director,
Chennai Metro Water Supply &
Sewerage Board,
No.1, Pumping Station Road,
Chintadripet,
Chennai 600 002.

+1cc to Mr.R.Prem Narayan, Advocate, S.R.No.35408

+1cc to the Government Pleader, S.R.No.35648

W.P.No.23382 of 2013

SSV(CO)
RV(22/12/2020)



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