



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Rev.Aplc(MD).Nos.48 and 49 of 2020

in

W.P(MD).Nos.13040 and 13114 of 2009

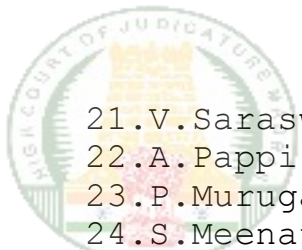
and

W.M.P(MD).Nos.15946 and 15947 of 2020

WEB COPY

- 1.The State of Tamilnadu,
Rep by its Secretary to Govt.
Rural Development and Panchayat Raj Department,
Secretariat, Chennai-600 009.
 - 2.The Commissioner,
Directorate of Rural Development and Panchayat Raj,
Panagal Building, Saidapet,
Chennai-600 015.
 - 3.The District Collector,
Thoothukudi District,
Thoothukudi.
 - 4.The Block Development Officer,
(Village Panchayat)
Ottapidaram Panchayat Union, Ottapidaram,
Thoothukudi District.
- ... Petitioners
- Vs.

- 1.V.Velmurugan
- 2.A.Mohan
- 3.L.Raj
- 4.K.Murugan
- 5.S.Senthoorpandi
- 6.A.Balamurugan
- 7.S.Veyilkumar
- 8.C.M.Muniasamy
- 9.A.Marikkani
- 10.V.Uma
- 11.P.Velusamy
- 12.V.Muthulatchumi
- 13.S.Selvam
- 14.A.Palanisamy
- 15.S.Ramar
- 16.V.Kannan
- 17.M.Gurusamy
- 18.T.Kathiresan
- 19.P.Manoharan



21.V.Saraswathi
22.A.Pappi
23.P.Murugan
24.S.Meenatchisundaram
25.K.Dhanalatchumi
26.P.Palanimurugan
27.K.Sivaperumal
28.S.Jayakumar
29.S.Shanmugaraj
30.K.Rajalatchumi
31.S.Gurusampandian
32.A.Baskar
33.E.Athiappan
34.M.Senthilgurunathan
35.a.Anthony Navamani
36.L.Esakkimuthu
37.E.Kasalimaraikkayar
38.N.Valliammal
39.V.Subramanian
40.R.Ravichandran
41.K.Veluchamy
42.S.Rasaiah
43.K.Saravana Selvi
44.T.Jayasingh
45.R.Deivakani
46.M.Kumaravel

... Respondents

Rev.Aplw(MD) .No.49 of 2020

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Rep by its Secretary to Govt.
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Panagal Building,
Saidapet,
Chennai-600 015.

3.The District Collector,
Thoothukudi District,
Thoothukudi.

4.The Block Development Officer,
(Village Panchayat)
Kayathar Panchayat Union, Kayathar,
Thoothukudi District.

... Petitioners

Vs.



- 1.K.Samuthirakani
- 2.M.Ganesan
- 3.K.S.Kasirajan
- 4.M.Pether Mariappan
- 5.P.Pon Madasamy
- 6.A.Saravanasamy
- 7.K.Marimuthu
- 8.K.Rajeswari
- 9.K.P.Ayyanar
- 10.M.Ayyappan
- 11.P.Kombiah
- 12.M.Sasikumar
- 13.A.Revathy
- 14.M.Chellapandi
- 15.S.Packiam
- 16.M.Madasami
- 17.S.Sudalaimani
- 18.K.Mariappan
- 19.V.Shanmuga Kumar

... Respondents

COMMON PRAYER: Review Applications filed under Order 47 Rule 1 r/w. Section 114 of CPC, to allow the review petition by reviewing the order made in W.P(MD).Nos.13040 and 13114 of 2009 dated 03.06.2019.

Prayer in WP(MD) . 13040/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records on the file of lthe 3rd respondent in connection with the impugned order passed by him in his proceedings in Na.Ka.Va.3/27271/2009 dated 10/07/2009 and quash the same as illegal and arbitrary in so far as the petitioners are concerned and consequently forbear the respondents from recovering the arrears paid to the petitioners .

Prayer in WP(MD) . 13114/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 3rd respondent in connectioni with the impugned order passed by him in his proceedings in Na.Ka.Va.3/27271/2009 dated 10/07/2009 and quash the same as illegal and arbitrary in so ra as the petitioners are conerned and consequently forbear the respondents from recovering the arrears paid to the petitioners .

For Petitioners in
both petitions : Mr.J.Gunaseelan Muthiah
Additional Government Pleader



For Respondents
in both petitions : Mr.G.Thalaimutharasu

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COMMON ORDER

These Review Petitions are filed mainly on the ground that the writ petitions are filed challenging the recovery order passed by the respondents.

2.The respondents/employees are working as Panchayat Assistants in Thoothukudi District. As per G.O.Ms.No.191, dated 29.04.1998, pay revision was granted. Pursuant to the recommendations of the pay Revision Committee, the Government issued a letter dated 04.03.1999 and clarified that the benefit given in G.O.Ms.No.191 is not applicable to the employees working in Panchayat and accordingly, sought for the recovery of the amount already paid mistakenly. Consequently, erroneous pay revisions granted to the respondents were cancelled and the consequential order of recovery was passed by the authorities concerned. The writ petitions came up for hearing and this Court allowed the said writ petitions by quashing the order of recovery dated 10.07.2009 and the excess payment already made cannot be recovered from the employees.

3.The learned Additional Government Pleader appearing for the petitioners made a submission that the issue went before the Hon'ble Division Bench of this Court in Rev.Aplc(MD)No.178 of 2018, dated 05.04.2019 and the Hon'ble Division Bench, passed the following order,

"14.In the light of the above coupled with the fact that there is absolutely no change in the status between the government servants and the employees of the Government bodies, weed there is considerable force in the submission of the seamed additional Government Pleader. Moreover, the fragment of the Division Bench rendered - WA(MD).No.1270 of 2012, no relief has been granted to similarly placed employees by taking note of the fact that they have been brought under regular time scale of pay.

15.Thus, we feel that this is a fit case where the Review Application has to be allowed especially when the respondents have already been brought under regular time scale of pay.



16. With the above observation, the Review Application allowed. No costs."

4. The learned Additional Government Pleader appearing for the petitioners contended that when the writ petitions were taken up by this Court, they have not brought about the order passed by the Hon'ble Division Bench of this Court, before this Court. In view of the fact that the order of the Hon'ble Division Bench was not placed before this Court, this Court had no opportunity to deal with the matter by following the order passed by the Hon'ble Division Bench.

5. However, similar writ petitions were heard by this Court in W.P(MD).No.6392 of 2012 and delivered a judgment on 06.10.2020, elaborately discussing of the issues and the relevant paragraph is extracted hereunder:

"5. Regarding the present writ petition, all the writ petitioners are working as Panchayat Assistant and receiving the regular time scale of pay. Thus, they are not entitled to avail the benefit of Government Order issued in G.O.(MS).No.191, Finance (Pay Cell) Department, dated 29.04.1998. The audit objections raised is inconsonance with the Government Order passed in G.O.(Ms).No.191, Finance (Pay Cell) Department, dated 29.04.1998. Thus, the order of recovery issued is in accord with the conditions stipulated in the Government Order as well as the objections raised by the Audit group. Thus, there is no infirmity as such in respect of the impugned order passed by the respondent. Accordingly, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed."

6. In view of the fact that the order sought to be reviewed was filed without taking note of the order passed by the Hon'ble Division Bench of this Court in a review application, the present review petitions are filed.

7. This Court, in the subsequent judgments, arrived at a conclusion that the Audit objections raised are in consonance with the Government Order in G.O.(Ms).No.191, Finance (Pay Cell) Department, dated 29.04.1998. Therefore, the respondents/employees are not entitled for the revision of pay, as per G.O.Ms.No.191, dated 29.04.1998. Thus, there is no infirmity as such in respect of the order of revision/ cancellation as well as the recovery is concerned. In this view of the matter, the review petitions are allowed and the order passed in W.P(MD).Nos.13040 and 13114 of



2009 stand set aside and the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

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// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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To

1.The Secretary to Govt.
Rural Development and Panchayat Raj Department,
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+1 cc to The Special Government Pleader Sr.No.26815&26816

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