



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 04.08.2020
DELIVERED ON : 18.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN
WP(MD).Nos.2547 and 2548 of 2015

and

M.P(MD).Nos. 2 and 2 of 2015 in both W.Ps

and

WMP(MD).Nos.2190 of 2016 and 3532 of 2016 in both W.Ps.

K. Murugan : Petitioner in W.P(MD).No.2547/15

T. Velladurai : Petitioner in W.P(MD).No.2548/15

Vs.

1.The Block Development Officer,
(Village Panchayat),
Panchayat Union Office,
Alangulam,
Tirunelveli District - 627 851 ... 1st Respondent in both W.P

2.The Panchayat President,
Village Panchayat,
Mela Kalangal, V.K. Pudur Taluk,
Tirunelveli district - 627 860 ... 2nd respondent in
W.P(MD).No.2547 /15

2.The Panchayat President,
Village Panchayat,
Kurichampatti, V.K.Pudur Taluk,
Tirunelveli District - 627 860 ... 2nd respondent in
W.P(MD).No.2548 /15

Prayer in W.P(MD).No.2547 of 2015: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ Certiorari calling for the records pertaining to the impugned order of reduction in pay in Na.Ka.No.Aa2/3654/2014(1), dated 01.12.2014 and the consequential order of recovery in Na.Ka.No.Aa2/3654/2014(6), dated 01.12.2014 on the file of the first respondent and quash the same.

Prayer in W.P(MD).No.2548 of 2015: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ Certiorari calling for the records pertaining to the impugned order of reduction in pay in Na.Ka.No.Aa2/3654/2014(1), dated 01.12.2014 and the consequential order of recovery in Na.Ka.No.Aa2/3654/2014(5), dated 01.12.2014 on the file of the first respondent and quash the same.



For petitioners
in both W.Ps

: Mr.Karthick
for T.Lajapathi Roy

For Respondents
in both W.Ps.

: Mr. J. Gunaseelan Muthiah
Additional Government Pleader

COMMON ORDER

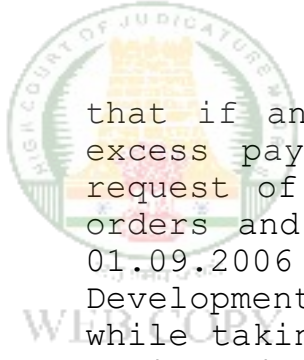
These Writ Petitions have been filed to quash the impugned order of reduction in pay passed by the first respondent in Na.Ka.No.Aa2/3654/2014(1), dated 01.12.2014 and the consequential order of recovery in Na.Ka.No.Aa2/3654/2014(5), dated 01.12.2014.

2. Both these Writ Petitioners were originally appointed as Panchayat Clerks in the second respondent village panchayat on 01.12.1999 and 02.04.2007 respectively and in pursuance to the G.O.Ms.No.52, Rural Development and panchayat (E5), Department, dated 29.08.2011 the post redesignated as the Village Secretary and till date they are working there as the Village Secretary at the second respondent Village Panchayat. The first respondent vide his proceedings in Aa3/3194/2013, dated 05.09.2013 and 06.09.2013 respectively refixed the pay scale of the post of Village Secretary from Rs.625-10-725-20-925 to 2500-5000+500 with effect from 01.09.2006 with arrears. Accordingly, the revised pay scale was provided to them till date. In the meanwhile, the first respondent has issued the impugned order, dated 01.12.2014 reducing the pay scale and ordering for recovery of the alleged excess pay of Rs.1,19,024/- and Rs.1,03,908/- respectively without any notice whatsoever. Hence, the order of recovery without notice is liable to be set aside. It is wrongly stated that they have agreed for one time re-payment.

3. The respondents herein have filed vacate stay petition, which has to be treated as a main counter.

4. I have heard the learned counsel appearing on either side and perused the materials available on record.

5. The petitioners and certain other Panchayat Secretaries of Village Panchayats, Alangulam Panchayat Union met the first respondent viz., Block Development Officer (Village Panchayats), Alangulam and requested him to revise their pay in pursuance to Government Order (Ms).No. 234 Finance (Pay Cell), Department, dated 01.06.2009 and G.O.Ms.No.52 Rural Development and Panchayat Raj Department, dated 29.08.2011 with effect from 01.09.2006 with monetary effect from 01.01.2007 and to sanction arrears of pay. The Panchayat Secretaries concerned had also given written undertaking



that if any defect is found latter in audit they will refund the excess pay drawn by them. The first respondent had examined the request of the Panchayat Secretaries based on the said Government orders and then issued orders refixing their pay with effect from 01.09.2006 with monetary effect from 01.01.2007. The Deputy Block Development Officer (Audit), Block Development Office, Alangulam, while taking annual audit of Village Panchayats concerned had raised audit objections stating that the pay of Panchayat Secretaries have to be revised with effect from 12.08.2009 only.

6. It is seen from the records that based upon the representations made by the petitioners along with 17 others pay has been revised with effect from 01.09.2006 with monetary effect from 01.01.2007 instead of 12.08.2009. In the said representation given by the petitioners there is an undertaking that they will refund the excess amount that if the audit is objected.

7. At this juncture, it remains to be stated that as per Rule 5(1) of the Tamil Nadu Village Panchayats (Payment of arrears to officers and Servants) Rules, 1999 issued in G.O.Ms.No.224 Rural Development Department, dated 20.10.1999, the arrears of pay if any paid is found to be incorrect / excess, in the audit it should be recovered from the panchayat staff concerned who has received the amount.

8. Based upon the representation given by the petitioners revised pay was fixed by the proceeding dated 06.09.2013 and the same was cancelled on 01.01.2014, this Court finds that the respondents exercised their power as per Rule 5(1) of the Tamil Nadu Village Panchayats (Payment of Arrears to Officers and Servants) Rules, 1999 and the enhancement of pay was granted to them on the representations which includes their undertaking to leave the excess if any. However, taking note of the fact that the respondents have exercised the powers under the Tamil Nadu Village Panchayats (Payment of Arrears to Officers and Servants) Rules, 1999, it should be proceeded with show cause notice and hence, it is hereby made clear that the impugned orders are issued without any show cause notice and hence, the same is violation of principles of natural justice.

9. In view of the above fact, I am inclined to allow both the Writ Petitions and consequently, the order of recovery made by the first respondent are set aside and the matters are remitted back to the respondents to take action against the petitioners in accordance with rules, after giving an opportunity of hearing by issuing show cause notice.

10. The Writ Petitions are allowed subject to the directions stated therein. No costs. Consequently, connected Miscellaneous Petitions are closed.



11. It is also made clear that till the final order is passed by the respondent concerned the petitioners are entitled to the revised scale of pay as mentioned in the impugned order only.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

trp

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Block Development Officer,
(Village Panchayat),
Panchayat Union Office,
Alangulam,
Tirunelveli District - 627 851

2.The Panchayat President,
Village Panchayat,
Mela Kalangal, V.K. Pudur Taluk,
Tirunelveli district - 627 860

3.The Panchayat President,
Village Panchayat,
Kurichampatti, V.K.Pudur Taluk,
Tirunelveli District - 627 860

+1 CC to SPL GP (SR-17508,17507[F] dated 21/09/2020)

+2 CC to Mr.T. LAJAPATHI ROY, Advocate (SR-17663,17662[F] dated 22/09/2020)

ORDER MADE IN
WP(MD).Nos.2547 and 2548 of 2015
18.09.2020

VB (30.09.2020) 4P 7C