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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.No.3815 of 2021

K.Annamalai

.. Petitioner

Vs.

1. Additional Secretary to Government
Home Department
Fort St. George
Chennai 600 009.
2. Director General of Police
Mylapore
Chennai 600 004.
3. Additional Director General of Police
Additional Commandment General
Home Guards
Chennai 600 004.
4. The Secretary to Government
Home (Pol. 14) Department
Fort St. George
Chennai 600 009.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration declaring that the G.O.Ms.No.115 dated 19.09.2019 passed by the first respondent insofar to extent that it is restricted to the number of call out duties to 10 days as unconstitutional and consequently, direct the first respondent to comply with the directions laid down in the judgment decided by the Hon'ble Supreme Court in the case of Grah Rakshak, Home Guards Welfare Association v. State of Himachal Pradesh & Ors. (2015) 6 SCC 247.

For the Petitioner : Ms.J.Divya

For the Respondent : Mr.P.Muthukumar
Counsel for State
for respondents 1 to 4



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Mr.M.Sathya Kumar
for the petitioner in
impleading petition
(WMP No.16598 of 2021)

ORDER

(Made by The Hon'ble Chief Justice)

The writ petition pertains to Home Guards covered by the Tamil Nadu Home Guards Rules, 1963, which is similar to the provisions in other States, including in Union Territories.

2. The writ petition, filed in public interest, challenges G.O.Ms.No.115 dated December 19, 2019 to the extent that such notification provides for a minimum of ten days' engagement for every volunteer in course of a month.

3. The petitioner refers to a judgment reported at (2015) 6 SCC 247 [Grah Rakshak, Home Guards Welfare Association v. State of H.P.] where the Supreme Court considered a plea for regularisation of the services of the Home Guards. Paragraph 39 of the report is the operative part of the order that requires State Governments to pay duty allowance to Home Guards at a daily rate comparable to what the salary of equivalent police personnel would be if projected over a month. The prayers for regularisation of services and for grant of regular appointments were declined.

3. There is also an application for impleadment. The applicant desires that the volunteers be engaged on a regular basis since the paltry amount earned from ten days may not be enough to run a family or even permit subsistence living.

4. Since the applicant in the impleadment application espouses the same cause as the petitioner, there is no need to specifically implead such applicant, though the relevant applicant has been heard out on the merits of the matter.

5. In view of the Supreme Court judgment relied upon by the petitioner, no case is made out for regularisation of the services of the volunteers on home guard duty. It is also not possible to require regular engagement of the volunteers. The State claims that usually it is the Superintendent of Police in every district who monitors the engagement of the volunteers and as per the impugned notification, every volunteer is assured at least ten days' engagement in a month. The State refers to the Rules of 1963 and emphasises that the service is completely voluntary and the amount which is made over by the State should



be regarded more as an honorarium rather than as compensation for the services rendered.

6. However, in view of the lack of employment opportunities, there are several men and women who treat their engagement as home guard as their source of income and sustain their families with the income. There is no doubt that the entire system requires to be revamped. Though the State says that ten days' work is ensured for every volunteer who signs up, there does not appear to be any basis for selecting the personnel. It also does not appear that the rule of minimum of ten days' per month applies to all personnel since there are several home guards on regular duty, almost throughout the month. These aspects have to be rationalised by the State. At least, there must be no perception that some persons are selected for greater engagement than others unless there are rules and criteria put in place in such regard.

7. Though the Rules of 1963 deem the home guard duty to be a voluntary service as in equivalent legislation or rules in other States, there are several men and women who depend on such engagement as the only source of livelihood. As much as the court will not interfere in a matter of policy which has been reduced to writing in the impugned notification published in December, 2019, the State should ensure that every volunteer applying for home guard duty and found eligible therefor is allotted at least ten full days' work per month in terms of the relevant notification or work equivalent to a total honorarium of Rs.5600/- being earned per month.

8. As far as the petitioner and the applicant for impleadment are concerned, it is hoped that the State enhances the daily rates on a periodic basis and, certainly, each time that the salary of the police personnel at the equivalent level is revised by the State.

W.P.No.3815 of 2021 is disposed of. There will be no order as to costs. WMP Nos.16598 and 4364 of 2021 are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kpl



To:

1. The Additional Secretary to Government
Home Department
Fort St. George, Chennai 600 009.
2. The Director General of Police
Mylapore, Chennai 600 004.
3. The Additional Director General of Police
Additional Commandment General
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4. The Secretary to Government
Home (Pol. 14) Department
Fort St. George
Chennai 600 009.

+1cc to Ms.J.Divya, Advocate, S.R.No.48310
+1cc to the Government Pleader, S.R.No.48243

W.P.No.3815 of 2021

PA(CO)
CT(29/09/2021)