

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2021

CORAM:

The HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7761 of 2021

P.Raju

... Petitioner

-vs-

1. The Government of Tamilnadu,
Rep. by its Commissioner of Municipal Administration
and Water Supply Department,
Fort St. George, Chennai - 600 009.

2. The Commissioner of Municipal Administration,
Ezhilagam, Chepauk,
Chennai - 600 005.

3. The Commissioner,
Erode City Municipal Corporation,
Erode-638 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 3rd respondent to grant the Scale of pay Rs.9300-34800 with Grade Pay of 4200 with effect from 25.06.2008 and all consequential monetary benefits including arrears of salary to the petitioner as fixed by the 1st respondent Government Letter No.63305/Pay Cell/2010-1, Finance Department, dated 08.11.2010 and circular issued in Na.Ka.No.19994/2017/F3, dated 10.02.2021 based on the petitioner representation dated 26.02.2020 and 16.02.2021 within the reasonable time may be fixed by this Court.

For Petitioner : Mr.P.Rajavel

For Respondents: Mr.J.Pothiraj
Special Government Pleader

O R D E R

This Writ petition is filed, seeking a direction to the 3rd respondent to grant the Scale of pay Rs.9300-34800 with Grade Pay of 4200 with effect from 25.06.2008 and all consequential monetary benefits including arrears of salary to the petitioner

as fixed by the 1st respondent Government Letter No.63305/Pay Cell/2010-1, Finance Department, dated 08.11.2010 and circular issued in Na.Ka.No.19994/2017/F3, dated 10.02.2021 based on the petitioner representation dated 26.02.2020 and 16.02.2021 within the reasonable time may be fixed by this Court.

2. Mr.J.Pothiraj, learned Special Government Pleader takes notice for Respondents. By consent, the Writ Petition is taken up for final disposal at the admission stage.

3. The brief facts of the case are that the petitioner was initially appointed as Street Light Maintenance (Helper) in the Department of Engineering Section in the 3rd respondent Corporation and regularized from the date of initial appointment. Thereafter, the petitioner has elevated to Selection grade on completion of 10 years and also retired from service in the same post as Street Light Maintenance (Helper) on 31.03.2017 after attaining the age of superannuation. It is the grievance of the petitioner that an impugned order of recovery of excess payment made to the petitioner, was passed by the 3rd respondent. Hence, the petitioner has filed W.P.No.30997 of 2017 before this Court and the same was allowed on 06.07.2018. It is also stated that as per the orders issued by the Government in letter No.63305/Pay Cell /2010-1 Finance department, dated 08.11.2010, the petitioner is entitled to be fixed the scale of pay Rs.9300-34800 with Grade pay 4200, in the post of Street Light Maintenance (Helper) which is no promotion post up to 24.06.2008. In this connection, the petitioner sent several representations. As there was no response on the representations, the petitioner is before this Court by filing the present Writ petition.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representations are already pending with the 3rd respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 3rd respondent herein to consider the representations preferred by the petitioner dated 26.02.2020 and 16.02.2021, if not disposed of earlier, and pass final orders, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same

shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 3rd respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representations dated 26.02.2020 and 16.02.2021 and this order, to the 3rd respondent forthwith;

v) The 3rd respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

vum
To

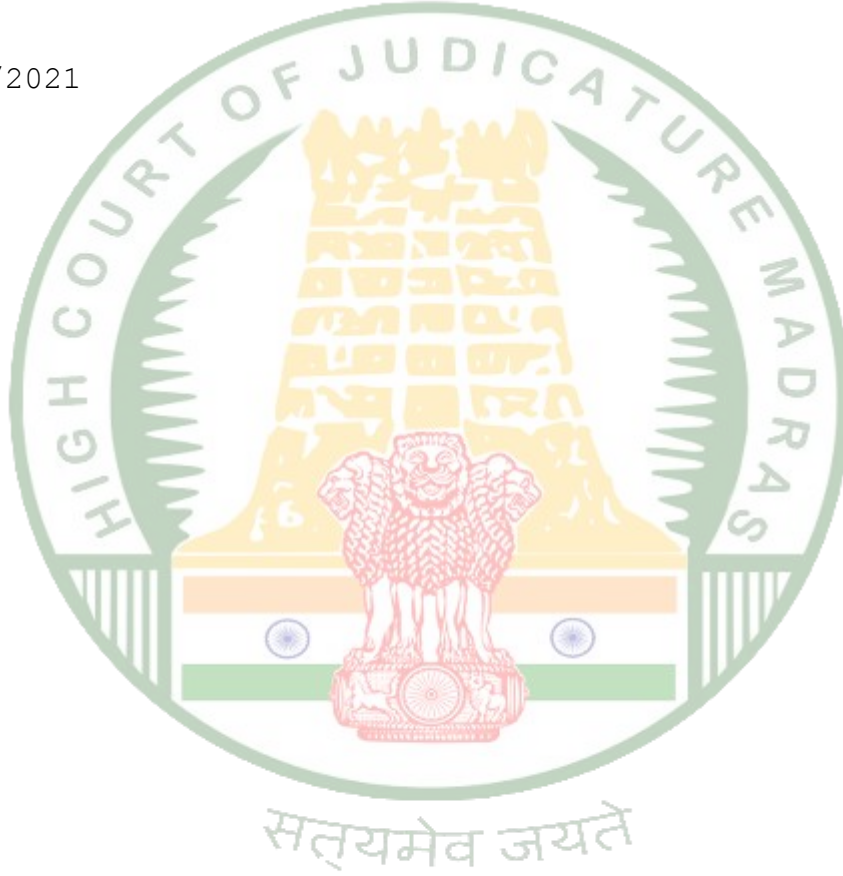
1. The Commissioner of Municipal Administration
and Water Supply Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Municipal Administration,
Ezhilagam, Chepauk,
Chennai - 600 005.

3. The Commissioner,
Erode City Municipal Corporation,
Erode -638 001.

+1cc to Mr.P.Rajavel, Advocate Sr.19519
+1cc to Mr.Rajamathivanan, Advocate Sr.19520
+1cc to the Government Pleader Sr.20148

W.P.No.7761 of 2021

pl[col]
srg 15/06/2021



WEB COPY