



WEB COPY



WP No.17500 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-11-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

**WP No.17500 of 2016
And
WMP No.14956 of 2016**

T.Mariappan

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Petitioner

VS.

1.The State of Tamil Nadu,
Represented by its Secretary,
Municipal Administration and Water Supply
Department,
Fort St. George,
Secretariat,
Chennai – 600 009.

2.The Director of Municipal Administration,
Chepauk,
Chennai – 600 005.

3.The Commissioner,
Pollachi Municipality,
Pollachi Town,
Coimbatore District – 642 001.

..

Respondents



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Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the third respondent dated 23.03.2016 in Na.Ka.No.C1/8569/2016, quash the same and consequently direct the respondents to continue implementing the increased pay scale as per G.O.Ms.No.338, Finance (Pay Cell) Department, dated 26.08.2010 for the category of 'Unskilled'.

For Petitioner : Mr.S.Vijayaganesh

For Respondents : Mr.K.Surendran,
Additional Government Pleader.

O R D E R

The order of re-fixation and recovery issued by the third respondent in proceedings dated 23.03.2016, is under challenge in the present writ petition.

2. The petitioner is working as Watchman in the third respondent-Municipality.

3. The learned counsel for the writ petitioner states that the pay



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of the writ petitioner was revised based on the Government Orders issued and accordingly the petitioner was receiving the salary for about five years.

While-so, based on the audit objection during the year 2015, the respondents have initiated action for reduction of scale of pay and consequently imposed recovery.

4. The learned counsel for the petitioner made a submission that the revision of pay was granted based on the Government Orders and there was no infirmity and based on the audit objections now after a lapse of many years, the impugned order has been passed.

5. This Court is of the considered opinion that errors if any while granting revision of scale of pay may be corrected by the Competent Authorities. However, the excess salary already paid to the Class IV employees, cannot be recovered at this length of time.

6. The petitioner is working as Watchman and the revision of



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pay was granted at the instance of the establishment and there was no misrepresentation or otherwise on the part of the writ petitioner. Thus the petitioner cannot be penalised after several years by imposing recovery.

7. This being the factum, the respondents are directed to correct the mistakes, if any in the revision of scale of pay and accordingly pay the correct salary to the writ petitioner in accordance with the Pay Rules and Government Orders in force. However, the excess salary already paid to the writ petitioner cannot be recovered. Thus the order impugned passed by the third respondent in proceedings Na.Ka.No.C1/8569/2016 dated 23.03.2016 is quashed to the effect of recovery alone.

8. Accordingly, the writ petition stands allowed in part. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
Svn
To



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S.M.SUBRAMANIAM, J.

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