

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.18170 of 2020
and WMP.No.22582 of 2020

1.P.Pichandi (deceased)
2.P.Mallika
3.P.Malathi
4.P.Vimal Kumar
5.P.Gomathi .. Petitioner
(P2 to P5 substituted as Lrs. of the deceased
P1, vide order dated 22.03.2022 in
WMP.No.6683 of 2022 in W.P.No.18170 of 2020)

vs.

1.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai-600 003.

2.The Assistant Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai-600 003.

3.The Joint Director,
Local Fund Audit Department,
Greater Chennai Corporation,
Chennai-600 003.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order bearing Po.Thu.Na.Ka.No.B12/000552/2020 dated 12.03.2020 passed by the 2nd respondent and quash the same and consequently, direct the respondents to refund the recovered amount, restore the Selection Grade Pay Scale of Rs.9300-34800+4200/- notionally from 01.01.2006 and monetarily from 01.08.2010, revise and rework the pension and to pay the arrears on such reworking, along with consequential benefits within a time frame.

For Petitioner : Ms.G.Kiruthika

For Respondents : M/s.S.Vaitheeswari
Standing Counsel

O R D E R

The petitioner, challenging the impugned order of recovery passed by the second respondent dated 12.03.2020, has filed the present writ petition.

2. The learned counsel for the petitioner submits that the issue raised in the writ petition is squarely covered by the decision of this Court in W.P.Nos.7307 of 2020 etc., batch dated 23.12.2021 [M.Emrose v. The Commissioner, Greater Chennai Corporation and others], wherein this Court has ordered as under:

"96. In the result, these writ petitions are allowed with the following directions:

i. There shall be no recovery of any amounts paid to the petitioners;

ii. Any recovery made so far / withheld pursuant to the impugned proceedings / orders shall be repaid to the respective petitioners within a period of 120 days from the date of receipt of a copy of this order.

iii. The petitioner in W.P.No.10277 of 2020 (D.Gurumurthy) is entitled for step up of the pay scale conferred on the other petitioners.

iv. The respondents shall calculate the arrears and pay the same to the petitioner in W.P.No.10277 of 2020 (D.Gurumurthy) within a period of 120 days from the date of receipt of a copy of this order.

v. There shall be no downward refixation of pay/pensions of the respective petitioners.

vi. The respondents shall take steps to get a Government Order ordered above to be issued within a period of 180 days from the date of receipt of a copy of this order and to bring a closure to the issue once for all.

vii. No costs. Consequently, connected miscellaneous petitions are closed."

3. The learned Standing Counsel for the respondents Corporation has not refuted the fact that the issue is already covered by the earlier decision of this Court supra and further submitted that challenging the order passed in W.P.Nos.7307 of 2020 etc., batch, the respondents Corporation is taking steps to prefer writ appeals.

4. In the light of the above submissions and in the interest of justice, this Court passes the following order:

(i) The petitioner is permitted to make a representation to the respondents within a period of two weeks from the date of receipt of a copy of this order:

(ii) On such representation being made, the first respondent is directed to consider the same in the light of the earlier order of this Court in W.P.Nos.7307 of 2020 etc., batch dated 23.12.2021 [M.Emrose v. The Commissioner, Greater Chennai Corporation and others], subject to any appeal to be preferred by the respondents Corporation as against the said order and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order.

5. The Writ Petition stands disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

Jvm

To

- 1.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai-600 003.
- 2.The Assistant Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai-600 003.
- 3.The Joint Director,
Local Fund Audit Department,
Greater Chennai Corporation,
Chennai-600 003.

+1cc to M/s.S.Vaitheeswari, Advocate SR.No.41907

+2ccs to Mr.S.R.Sankareshwaran, Advocate SR.No.41872

W.P.No.18170 of 2020

SR II(CO)
GMY(18/07/2022)