



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2022

CORAM:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos.9826 & 9970 of 2021

and

W.M.P. (MD) Nos.7548, 7549, 7672 & 7675 of 2021 & 1879 of 2022

W.P. (MD) No.9826 of 2021:

1.A.Azhagumuthu

2.C.Rajeshmathan

3.S.P.Sundaresan

4.T.Marimuthu

5.E.Arul

... Petitioners

vs.

1.The Additional Chief Secretary to Government
Municipal Administrative & Water Supply Department
Chennai-9

2.The Principal Secretary to Government
Finance (Pay Cell) Department, Chennai-9

3.The Director of Municipal Administration
Chepauk, Chennai-5

4.The Commissioner-cum-Personal Officer
Thoothukudi City Municipal Corporation
113, Palai Road, Thoothukudi-2

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the entire records related to the impugned order passed by the 4th respondent in E2/00101/2020 dated 25.03.2021 and quash the same and consequently directing the 4th respondent not to effect the recovery and reduce the salary of the petitioners.

For Petitioner : Mr.Pragalathan.N.

For Respondents : Mr.D.S.Nedunchezian
Government Advocate for R1 to R3
Mr.S.Saji Bino for R4



W.P. (MD) No.9970 of 2021:

1.S.Sakthilingam

2.E.Udayar

3.S.Moorthy

4.S.Vetrivel

5.P.Senthilkumar

6.A.Arumugam

7.M.Munirajan

8.S.Ramanathan

9.S.Esakkimuthu

10.R.Jeeva

11.P.Devapiran

12.S.Ramachandran

... Petitioners

vs.

1.The Additional Chief Secretary to Government
Municipal Administrative & Water Supply Department
Chennai-9

2.The Principal Secretary to Government
Finance (Pay Cell) Department
Chennai-9

3.The Director of Municipal Administration
Chepauk
Chennai-5

4.The Commissioner-cum-Personal Officer
Thoothukudi City Municipal Corporation
113, Palai Road
Thoothukudi-2

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the entire records related to the impugned order passed by the 4th respondent in C1/000422/2021/ki.ma dated 31.03.2021 and quash the same and consequently directing the 4th respondent not to effect the recovery and reduce the salary of the petitioners.



For Petitioners : Mr.Pragalathan.N.
For Respondents : Mr.D.S.Nedunchezian
Government Advocate for R1 to R3
Mr.S.Saji Bino for R4

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Since the issues involved in both the writ petitions are one and the same, they have been clubbed together, heard together and are being disposed of by this common order.

2. The show cause notices regarding proposed re-fixation and recovery of excess pay are under challenge in the present writ petitions.

3. The petitioners were appointed in the fourth respondent - Municipal Corporation as unskilled employees. The pay was fixed in accordance with the Government Orders in force. The Authorities Competent, based on the audit objections, found that excess amount has been paid to the petitioners due to erroneous fixation of pay. In other words, the Audit parties raised objections regarding fixation of pay. Thus, the impugned show cause notices were issued to the petitioners asking them to submit their objections within a period of five days. Instead of submitting their objections, the petitioners have chosen to file the present writ petitions.

4. This Court is of the considered opinion that no writ against a show cause notice needs to be entertained in a routine manner by the High Court. Once a show cause notice has been issued regarding wrong fixation of pay, then the petitioners have to submit their objections, if any, along with documents. Contrarily, writ petitions cannot be entertained for adjudication of the issues as the same is to be done by the Authority Competent at the first instance with reference to the documents and evidences made available.

5. In such view of the matter, the petitioners are at liberty to file their objections, if any, along with documents, within a period of two weeks from the date of receipt of a copy of this order and on receipt of any such objections from the petitioners, the respondents are directed to consider the same on merits and in accordance with law and pass appropriate orders as expeditiously as possible.

6. With the above directions, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)



To:

1.The Additional Chief Secretary to Government,
Municipal Administrative & Water Supply Department,
Chennai-9.

2.The Principal Secretary to Government,
Finance (Pay Cell) Department,
Chennai-9.

3.The Director of Municipal Administration,
Chepauk, Chennai-5.

4.The Commissioner-cum-Personal Officer
Thoothukudi City Municipal Corporation
113, Palai Road
Thoothukudi-2

+1 CC to M/s.S.SAJI BINO, Advocate (SR-13343[F] dated 22/03/2022)
+1 CC to M/s.N.PRAGALATHAN, Advocate (SR-13690[F] dated 23/03/2022)
+1 CC to M/s.N.PRAGALATHAN, Advocate (SR-13689[F] dated 23/03/2022)
+1 CC to M/s.SPL GP (SR-13546[F] dated 22/03/2022)
+1 CC to M/s.SPL GP (SR-13545[F] dated 22/03/2022)

W.P.(MD) Nos.9826 & 9970 of 2021
and

W.M.P.(MD) Nos.7548, 7549, 7672 &
7675 of 2021 & 1879 of 2022
21.03.2022

KRK

MS/31.03.2022/4P.10C