



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) Nos.9714, 9715, 9716 & 9717 of 2021
and

W.M.P.(MD) Nos.7462, 7463, 7464, 7465, 7466, 7467, 7468 & 7469 of
2021

E.Arumugam	...	Petitioner in W.P.(MD) No.9714 of 2021
A.Subramanian	...	Petitioner in W.P.(MD) No.9715 of 2021
L.Kanthan	...	Petitioner in W.P.(MD) No.9716 of 2021
M.Madurai Veeran	...	Petitioner in W.P.(MD) No.9717 of 2021

vs.

1.The Executive Officer
Gopalasamudiram Town Panchayat
Gopalasamudiram
Tirunelveli District

2.The Assistant Director of Local Fund Audit
Tirunelveli Town, Tirunelveli

... Respondents in
all W.Ps.

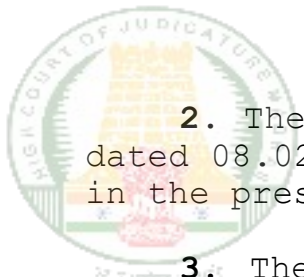
PRAYER (in all W.Ps.): Writ Petitions filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records relating to the impugned proceedings issued by the 1st respondent in Na.Ka.No.66/2018, dated 08.02.2019 and to quash the same and consequently directing the respondents to restore the scale of pay to the petitioner as per the orders of Director of Town Panchayats, Chennai, vide proceedings in Na.Ka.No.21256/2012/A3, dated 10.06.2013 and the subsequent order of Assistant Director of Town Panchayats in Na.Ka.No.3063/2013/Pa2, dated 10.06.2013.

For Petitioner : Mr.Sankaran.G
(in all W.Ps.)

For Respondents : Mr.A.K.Manikkam
(in all W.Ps.) Special Government Pleader

C O M M O N O R D E R

Since the issue involved in all the writ petitions are one and the same, they were clubbed together, heard together and are being disposed of by this common order.



2. The order of re-fixation of pay and the consequent recovery, dated 08.02.2019, passed by the first respondent, is under challenge in the present writ petitions.

3. The petitioners in W.P.(MD) Nos.9714, 9715 & 9716 of 2021 were appointed as Water Supply Staff and the petitioner in W.P.(MD) No.9717 of 2021 was appointed as Street Light Maintenance Staff falling under Group-D post and all the four petitioners are now working as Street Light Assistant, Water Tank Opener, Pump House Watchman and Motor Opener respectively. Based on the Government Orders, the pay as applicable to the petitioners has been fixed by the Competent Authority. There is no misrepresentation or otherwise on the part of the petitioners, while fixing the scale of pay. There was an error in fixation of pay, which was identified by the audit parties subsequently. Based on the audit objection, the scale of pay erroneously fixed was corrected and consequently, recovery order was issued.

4. This Court is of the considered opinion that erroneous fixation is to be corrected by the Authorities. Correction of error is permissible at any point of time. All the petitioners are eligible for correct scale of pay. However, excess payment made without any misrepresentation on the part of the petitioners cannot be recovered in view of the fact that such recoveries would cause hardship to the petitioners, who all are working in Group-D post. Courts have repeatedly held that if any excess pay has been granted due to mistake or on account of erroneous fixation of pay, such recovery cannot be effected after a lapse of many years from the last grade servants. In the present case, the petitioners are Group-D employees and there is no misrepresentation on their part in respect of erroneous fixation of pay. The respondents are directed to correct the mistake and pay the correct scale of pay as applicable to the petitioners. However, excess amount, if any, paid cannot be recovered. Thus, the impugned order, dated 08.02.2019, passed by the first respondent, is quashed as far as recovery is concerned and in respect of re-fixation of pay, the respondents are directed to correct the mistake and pay the applicable scale of pay to the petitioners.

5. Accordingly, all these writ petitions are partly allowed. 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 Executive Officer,
Gopalamudiram Town Panchayat,
Gopalamudiram,
Tirunelveli District.

2.The Assistant Director of Local Fund Audit,
Tirunelveli Town,
Tirunelveli.

+1 CC to M/s.F.DEEPAK, Advocate (SR-13361[F] dated 22/03/2022)

+1 CC to M/s.SPL GP (SR-13893[F] dated 23/03/2022)

W.P.(MD) Nos.9714, 9715, 9716 & 9717 of 2021
and

W.M.P.(MD) Nos.7462, 7463, 7464, 7465,
7466, 7467, 7468 & 7469 of 2021
21.03.2022

KRK

MS/29.03.2022/3P.5C