



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

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W.P.(MD) No.15934 of 2020
and W.M.P (MD) .Nos.13329 of 2020 & 5820 of 2021

Tamil Nadu Arasupaniyalar Sangam,
Rep.by its Honourary Secretary,
K.Balasubramanian,
Having Office at
10/12, 1st Floor, Sundaram Complex,
Nethaji Main Road,
Madurai-1

... Petitioner

Vs.

1 The Secretary to Government
Finance (Pay Cell) Department,
Secretariate,
Chennai.

2 . The Director of Town Panchayats,
Urban Administrative Office Campus,
Santhome, Chennai 28

3 The Director
Local Fund Audit Department,
4th Floor, Integrated Complex For Finance Department,
Nandanam,
Chennai-35.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the proceedings of the 2nd respondent made in Na.Ka.No.1222/2020 A3 dated 07.10.2020 and quash the same.

For Petitioner : Mr.K.Govindarajan

For Respondents : Mr.M.Ramesh
Government Advocate



O R D E R

The order dated 07.10.2020 issued by the Director of Town Panchayats is under challenge in the present Writ Petition.

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2. The petitioner is the Tamil Nadu Arasu Paniyalar Sangam, represented by its Honorary Secretary. The petitioner Association states that it is functioning for the welfare of the Government employees of all the Departments including the employees of the Town Panchayats. The petitioner states that the posts of Over Head Tank Operator (OHT), Motor Operator, Street Light Helper, Water Supply Maintenance Operator, Turn Cock, Pump Cleaner, Watchman and Water Supply Helper are Group-D employees under the Town Panchayat Service Cadre. The Government issued an order in G.O.Ms.No.234, Finance Department dated 01.06.2009. In order to rectify certain grievances, One Man Commission was appointed who in turn submitted recommendation and based on the recommendation of the One Man Commission, the Government issued the order. Accordingly, the second respondent/Director of Town Panchayats issued the order in proceedings dated 07.10.2020 stating that the pay of certain categories where technical qualifications are not required are to be revised as the audit objections are raised regarding such fixations. Based on the audit objections and pursuant to the Government order passed, based on the report of the One Man Commission, the second respondent issued the order in proceedings dated 07.10.2020, which is impugned.

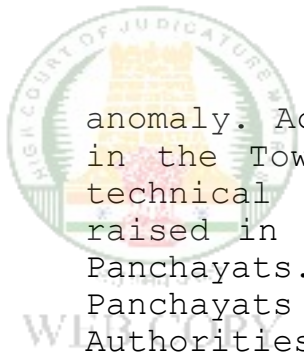
3. The question arose whether an Association can maintain a writ petition on behalf of all the employees in all the Town Panchayats across the State of Tamil Nadu, in respect of re-fixation of pay, pursuant to the audit objections.

4. When the question of maintainability is raised by this Court, the learned counsel for the petitioner made a submission that it is re-fixation of pay to several Group-D employees. Therefore, it is to be construed as a common grievance for all purposes. In such circumstances, other writ petitions are entertained and orders are passed. Thus, the present writ petition is also to be entertained.

5. Writ Petition filed by the Association is to be entertained based on its own facts and circumstances. Even in case a writ petition on earlier occasion is admitted by the High Court, that will not be followed as precedent in all the cases, since the facts and circumstances and the implications in the event of admitting such writ petition are to be considered independently without reference to the other orders if at all passed wherein the Association is the petitioner.

6. In the present case, pursuant to the pay commission implementation, One Man Commission was constituted to rectify the

<https://hceservices.mca.gov.in/hceservices/>



anomaly. Accordingly, pay fixation was granted to all the employees in the Town Panchayats (i.e.,) in respect of Group-D posts where technical qualifications are not required. Audit objections were raised in respect of fixation done by the Authorities of the Town Panchayats. Based on the audit objections, the Director of Town Panchayats issued the order impugned dated 07.10.2020 directing the Authorities of the Town Panchayats to refix the pay in accordance with the Government Orders.

7. Let us consider the possible implications. In the event of re-fixation of pay of the employees, it is an individual fixation and to be construed as individual grievance, if at all exists. Pay fixation depends on the service records of an employee. It involves recovery of loan etc., So, each employee has to raise his own grievances, if at all they are aggrieved. Furthermore, if a recovery is to be imposed, then also, it is an individual grievance.

8. At the outset, the pay fixation is an individual grievance and consequential recovery is also to be made on individual basis. In some Town Panchayats, the Executive Officers may refix the pay or already would have done it. In some Town Panchayats, it is to be done pursuant to the orders passed by the Director of Town Panchayat. Individual grievances cannot be dealt with in a writ petition filed by the Association. Individual grievances are to be re-dressed by the individual concerned by filing writ petitions.

9. There are every possible adverse circumstances in the event of entertaining such writ petitions filed by the Association. The Office Bearers of the Association may change or they may take a decision which may not be agreeable to all the employees. This kind of anomalous situation would create infringement of right to all the employees. Thus, the likelihood of infringement of right of an individual employee is also to be considered by the Courts, while entertaining a writ petition filed by the Association, more specifically, in the matter of pay fixation and recovery. Pay fixation being an individual right, such right is to be redressed only by such aggrieved persons and not by the Association by challenging the directions issued by the Head of the Department.

10. Under these circumstances, this Court is of the opinion that the writ petition filed by the Association in respect of pay fixation and recovery cannot be entertained and it is for the individual employees who are aggrieved to approach the Appellate Authorities or the Court of Law as the case may be, to redress their grievances. In view of the fact that the writ petition is decided on preliminary issue, this Court is not inclined to adjudicate the merits involved in this case as the aggrieved persons are not before this Court and the Association cannot be said to be an aggrieved person in respect of fixation of pay and recovery.



11. However, it is made clear that the Association is at liberty to represent their case on behalf of their members with the Government or with the Competent Authorities of the Department.

12. Accordingly, the Writ Petition stands dismissed. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

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/ /2022

Sub Assistant Registrar(CS)

ssb

To

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+1. CC to M/S.SPL.GP, SR.No.10621

W.P.(MD) No.15934 of 2020

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