



W.P.(MD)No.23379 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 23379 of 2015

and

M.P.(MD)Nos.1, 2, 3 of 2015

P.Kalimuthu

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
Highways Department,
Fort Saint George, Chennai – 600 009.
2. The Chief Engineer (Highways),
Construction & Maintenance,
Chepauk, Chennai 600 005.
3. The Divisional Engineer (Highways),
Construction & Maintenance,
Virudhunagar, Virudhunagar District.
4. The Principal Accountant General,
Office of the Accountant General,
261, Annasalai, Chennai – 600 018.

.... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Mandamus*, calling for the records relating to impugned proceedings issued by the 3rd respondent herein in Se.Mu.Ka.No. 1954-1/2014/A2 dated 29.10.2014, Se.Mu.Ka.No.1954-2/2014/A2, dated 29.10.2014, Se.Mu.Ka.No.1954-3/2014/A2, dated 29.10.2014, and Ku.No. 1954/2014/A2 dated 28.01.2015 (impugned orders I to IV re-fixing petitioners scale of pay retrospectively from 01.01.2006 and directing to repay the alleged excess amount), Quash the same, further direct the respondents herein to refund the recovered sum of Rs.1,63,369/-to the petitioner and also revise the petitioner's pension by restoring the original scale of pay sanctioned by the 3rd respondent herein vide proceedings in Se.Mu.Ka.No.319/2011-1/A3, dated 30.08.2011 and disburse arrears of pension thereon.

For Petitioner : M/S.E.V.N.Siva

For R-1 to R-3 : Mr.C.Baskaran,
Government Advocate (civil side)

For R-4 : Mr.P.Gunasekaran

ORDER

This Writ Petition has been filed for issuing *Writ of Mandamus*, to quash the impugned proceedings issued by the 3rd respondent in Se.Mu.Ka.No. 1954-1/2014/A2 dated 29.10.2014, Se.Mu.Ka.No.1954-2/2014/A2, dated 29.10.2014, Se.Mu.Ka.No.1954-3/2014/A2, dated 29.10.2014, and Ku.No.



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1954/2014/A2 dated 28.01.2015 (impugned orders I to IV re-fixing petitioners scale of pay retrospectively from 01.01.2006 and directing to repay the alleged excess amount), and also sought for further direction to the respondents to refund the recovered sum of Rs.1,63,369/-to the petitioner and also revise the petitioner's pension by restoring the original scale of pay sanctioned by the 3rd respondent, vide proceedings, dated 30.08.2011 in Se.Mu.Ka.No.319/2011-1/A3, and disburse arrears of pension thereon.

2. Heard M/S.E.V.N.Siva, learned counsel appearing for the petitioner and Mr.C.Baskaran, learned Government Advocate (civil side) appearing for the respondent Nos.1 to 3 and Mr.P.Gunasekaran, learned counsel appearing for the 4th respondent.

3. When the matter is taken up for hearing, it is represented that the Writ petitioner died and the legal heirs are ought to be impleaded. The said submission is taken. The deceased petitioner was serving as Road Inspector and receiving pension under PPO No.R11408912. The issue raised before this Court is that the petitioner either entitled to the Grade pay that was fixed under



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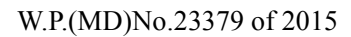
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G.O.Ms.No.234 (Finance (Pay Cell) Department, dated 01.06.2009 or he is entitled to 3% + 3% increasing in increment.

4. Admittedly, there is some confusion in fixing the entitlement of the deceased writ petitioner. It is an admitted fact that the petitioner is entitled to Grade Pay or he is entitled to 3% + 3% increasing in the increment. It is seen from the records that the respondents have denied fully.

5. Therefore, this Court is of the considered opinion that the matter is remitted back to the authorities concerned for reworking the eligibility to the petitioner.

6. In view of the aforesaid reasons, the 3rd respondent is directed to consider the claim of the deceased writ petitioner, after perusing his Service register and his eligibility and forward the related papers to the 4th respondent. If the petitioner is eligible to the said amount, i.e., recovered amount shall be



7. With the above observation, this Writ Petition is disposed of. No
 subsequently, connected miscellaneous petitions are closed.

22.11.2022



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To

1. The State of Tamil Nadu,
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2. The Chief Engineer (Highways),
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3. The Divisional Engineer (Highways),
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S.SRIMATHY, J

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**Order made in
W.P.(MD)No.23379 of 2015**

22.11.2022