BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.04.2022
CORAM

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P.(MD)No.5819 of 2017**

S.Arumugam ... Petitioner

vs

1. The Accountant General,
   361, Anna Salai,
   Teynampet, Chennai – 600 018.

2. The Secretary to Government,
   Revenue Department,
   Secretariat, Chennai – 600 009.

3. The Joint Commissioner (Revenue Administration)
   Ezhilagam, Chepauk, Chennai-600 005.

4. The Secretary to Government
   Finance Department,
   Secretariat, Chennai. ... Respondents

*(R4 is suo motu impleaded, vide court order, dated 21.04.2022 in W.P.(MD)No.5819 of 2017)*

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the second respondent i.e. the Secretary to Government Revenue Department Chennai relating to letter No.34668/Ser.3(2)/2013-12 dated 03.03.2016 and quash the same and consequently direct the first and second respondents i.e. the Accountant General Chennai and the Secretary to Government Revenue Department Chennai to revise the pension of the petitioner calculating the personal pay of Rs.500/- which the petitioner was last getting in the post of superintendent in the office of the District Backward Class, Theni on par with similarly placed persons within specified time frame.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.P.Gunasekaran for R1

Mr.P.Thambidurai for R2 to R4
Government Advocate (Civil Side)

**O R D E R**

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order dated

03.03.2016 and direct the respondents to revise the pension of the petitioner calculating the personal pay of Rs.500/- which the petitioner was last getting in the post of Superintendent in the office of the District Backward Class, Theni.

2. The brief facts of the case are that the petitioner was lastly serving as Superintendent in the cadre of Deputy Tahsildar in the office of the District Backward Class and Minorities Welfare Officer, Theni. The petitioner attained superannuation on 31.05.2011. The contention of the petitioner is that the petitioner was getting Personal Pay of Rs.500/- but the same was not included in the Basic pay + Grade pay while calculating his pensionary benefits. As per G.O.(Perm)No.45 Finance (Pay Cell) Department dated 10.02.2011, the petitioner is entitled for inclusion of the Personal Pay for the calculation of his pensionary benefits since the post of Deputy Tahsildar and Superintendent are interchangeable. Accordingly, pension proposals were sent by the District Backward Class and Minorities Welfare Officer, Theni. But the same was accepted by the Accountant General, Chennai mentioning that specific orders of the Government are necessary in this regard. Aggrieved over the same, the present writ petition is filed.

3. The third respondent has filed a counter affidavit stating that the petitioner was posted in the post of Superintendent which is coming under the District Backward Class and Minorities Welfare Officer and the said post is even though on par with the Deputy Tahsildar, he is not serving as Deputy Tahsildar. G.O.(Perm)No.45 Finance (Pay Cell) Department, dated 10.02.2011 is applicable only to the Deputy Tahsildar who had served as Deputy Tahsildar for a specific work that is assigned to the post. Since the petitioner is serving in the Ministerial cadre and as Superintendent in the District Backward Class and Minorities Welfare Officer Department, the petitioner is not entitled to include a Personal Pay of Rs.500/-. The Deputy Tahsildar and the Tahsildar in the Revenue Department and the Block Development Officer in the Rural Department due to their work load and work nature, the Government has granted Rs.500/- as Personal Pay. Though the post of Deputy Tahsildar and the Superintendent in the other Department is interchangeable it does not mean that all post of Superintendent is entitled to get Personal Pay. The said Government Order is applicable to the Tahsildar, Deputy Tahsildar who had served in the said post and who had carried out the work load and field work alone are eligible. The claim of the respondent is that the petitioner has not carried out such work of Deputy Tahsildar which comes under the Revenue Department. The petitioner had served only in the District Backward Class and Minorities Welfare Officer Department as Superintendent which comes under the Ministerial Service and he has not carried out any field work and there is no work load at all. Therefore, the petitioner is not entitled to the Personal Pay

4. Heard Mr.S.Visvalingam, learned Counsel appearing for the petitioner, Mr.P.Gunasekaran, learned Standing Counsel appearing for the first respondent and Mr.P.Thambidurai, learned Government Advocate appearing for the respondent Nos.2 to 4.

5. The learned Counsel appearing for the petitioner submitted a clarification Letter No.10980/Pay Cell/2020-1, dated 25.02.2021 issued by the Government states that the post of Superintendent in Ministerial Service is classified under common categories. Recruitment to this post is made by promotion from among the Assistants and equivalent categories. The Superintendents are the section heads in the office and their work is to supervise the Assistants/Junior Assistants and Typists in the section attached to them. Further all the Superintendents under the common categories are not permitted for appointment to the post of Deputy Tahsildar by transfer of service and the members of Ministerial Service employed in Revenue Department-cum-Boards of Revenue alone are allowed for appointment to the above said post. But the letter finally states that the Personal Pay attached to the post of Deputy Tahsildar/Deputy Block Development Officer is for the arduous nature of work attached to the post. A Deputy Tahsildar/Deputy Block Development Officer is entitled to the Personal Pay of Rs.500/- per month, sanctioned in the reference first cited, irrespective of place of posting or designation. The condition to be satisfied is that the officer concerned should be a Deputy Tahsildar/Deputy Block Development Officer. Relying on this communication the learned Counsel appearing for the petitioner submitted a clarification stating that the petitioner is also entitled.

6. However, the learned Counsel appearing for the respondent vehemently opposed and submitted that the petitioner is wrongly interpreting the letter. The said clarification ought to be read comprehensively by taking into consideration the other relevant paragraphs. It has been clearly stated in Para 3 that all the Superintendents under the common categories are not permitted for appointment to the post of Deputy Tahsildar by transfer of service and the members of Ministerial Service employed in Revenue Department-cum-Boards of Revenue alone are allowed for appointment to the above said post. By referring to this para, the learned Counsel appearing for the respondent submitted that if the Deputy Tahsildars are posted as Superintendents in the Revenue Department then they are entitled to Personal Pay. But the Deputy Tahsildars who were posted to other Departments under the category of Superintendents are not entitled to. Since the post of Superintendent and Deputy Tahsildar are interchangeable in the Revenue Department and any other Superintendent serving in other Department cannot be posted as Deputy Tahsildar. However, this interpretation was opposed by the learned Counsel for the petitioner stating that the petitioner was serving in District Backward Class and Minorities Welfare Officer which is attached to the District Collectors Office and it is not in a separate Department and

therefore, the petitioner is entitled to Personal Pay. Moreover, the petitioner was serving in the District Backward Class and Minorities Welfare Officer Department, he was receiving Personal Pay of Rs.500/- until the retirement which means he is treated as Superintendent in the Revenue Department, because the said Superintendent post in District Backward Class and Minorities Welfare Officer is one of the division under the Collector Office. However, there is no clear clarification from the Government Order as well as the clarification letter dated 25.02.2021.

7. Therefore, this Court is of the considered opinion that the issue ought to be placed before the Government and the Government alone is empowered to clarify whether the Superintendent working in the District Backward Class Department coming under the Collectors Office is entitled to Personal Pay of Rs.500/- and whether the personal pay can be added in the pensionary benefits. The Government is directed to clarify and issue the Government Order. If the petitioner is entitled to, then the respondents are directed to confer the benefits by including Personal Pay in the pensionary benefits. The learned Counsel appearing for the respondents submitted that the said clarification can be issued only by the Finance Department and also submitted that the proposal shall be forwarded to the District Backward Class Officer and not to the Tahsildar in Revenue Department. Therefore, this Court *Suo Motu* impleading the Secretary of Finance Department, Chennai and the Secretary shall clarify the above said issue. The said exercise shall be completed within a period of twelve weeks from the date of receipt of copy of this order.

8. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

**Note:**
In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

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   361, Anna Salai,
   Teynampet, Chennai - 600 018.

2. The Secretary to Government,
   Revenue Department,
   Secretariat,
   Chennai - 600 009.

3. The Joint Commissioner (Revenue Administration)
   Ezhilagam,
   Chepauk, Chennai-600 005.

4.The Secretary to Government,
   Finance Department,
   Secretariat,
   chennai-9.

+1 CC to M/s.S. VISVALINGAM, Advocate (SR-20556[F] dated 22/04/2022 )

+1 CC to M/s.SPL.GP. ( SR-20724[F] dated 22/04/2022 )

**W.P.(MD)No.5819 of 2017**
**21.04.2022**

RK(14/06/2022) 5P 7C