



W.P.Nos.337 & 341 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.07.2023

CORAM

THE HONOURABLE **MR. JUSTICE N.SATHISH KUMAR**

W.P.Nos.337 & 341 of 2022 and
WMP.Nos.374, 376, 378, 379 & 380 of 2022

M.Kandavel ... Petitioner in WP.337 of 2022

1.C.Ranganathan
2.G.Vijayabaskaran ... Petitioners in WP.341 of 2022

Vs

1.The Director of Town Panchayat,
7th and 8th Urban Administrative Building,
No.78, Santhome High Road, Chennai-600 028

2.The Assistant Director of Town Panchayat,
District Collector Office,
Vellore District. ... R1 & R2 in both WPs

3.The Executive officer,
Thakkolam Town Panchayat,
Arakkonam Taluk,
Ranipet District. ... R3 in WP.No.337 of 2022

4.The Executive officer,
Odugathur Town Panchayat,
Anaicut Taluk, Vellore District. ... R3 in WP.No.341 of 2022

5.The Director (Local Fund Audit)
No.571, Officer Building,
Saidapet Veterinary Hospital Campus, 4th Floor,
Anna Salai, Nandanam,
Chennai-600 035 ... R4 in both writ petitions



W.P.Nos.337 & 341 of 2022

PRAYER in WP.337 of 2022: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 1st respondent dated 07.10.2020 issued in Na Ka No 1222/2020 A3 and quash the same in so far as the Petitioner alone and consequently to continue the Grade pay of Rs 1900 to the Petitioner in terms of the 3rd respondent in his proceeding No Na.Ka.No 187/2012 dated 26.07.2013 and in terms of G.O.Ms.No.338 Finance (Pay Cell) department dated 26.08.2010 and to refund the entire amount if any amount had been recovered from the Petitioner.

PRAYER in WP.341 of 2022: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 1st respondent dated 07.10.2020 issued in Na Ka No 1222/2020 A3 and quash the same in so far as the Petitioner alone and consequently to continue the Grade pay of Rs 1900 to the Petitioner in terms of G.O.Ms.No.338 Finance (Pay Cell) department dated 26.08.2010 and to refund the entire amount if any amount had been recovered from the Petitioner.

For Petitioners : Mr.P.I.Thirumoorthy

For Respondents : Mr.V.Jeevagiridharan
Additional Government Pleader



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COMMON ORDER

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These writ petitions are filed challenging the proceedings of the first respondent dated 07.10.2020 issued in Na.Ka.No.1222/2020 A3, as far the petitioners are concerned, and to continue the Grade pay of Rs.1,900/- to the Petitioners in terms of the third respondent in his proceeding Na.Ka.No. 187/2012, dated 26.07.2013, and in terms of G.O.Ms.No.338 Finance (Pay Cell) Department, dated 26.08.2010, and to refund the entire amount if any recovered from the Petitioners.

2. It is the contention of the petitioners that as per the Sixth Pay Commission recommendation, by way of G.O.Ms.No.234 Finance (Pay Cell) Department, dated 01.06.2009, the pay was revised and nomenclature of various posts was changed and as per the revised pay structure, the petitioners' category is classified as Trade posts (unskilled) and the pay scale was fixed at Rs.5,200-20,200+1,900/- (Grade pay). Pursuant to the above fixation, the petitioners are regularly paid revised arrears also. However, the third respondent, by proceedings in Na.Ka.No.415/2017 dated 01.11.2017, issued a recovery order. However, the same has been kept in abeyance. Subsequently, proceedings in Na.Ka.No.1222/2020 A3, dated 07.10.2020, was issued by the first respondent cancelling the earlier proceedings and reduced the petitioners' grade pay from



Rs.1,900/- to Rs.1,300/-. Challenging the same, the present writ petitions have been filed.

3. Learned counsel for the petitioners would submit that the very reduction of the Grade pay in the order, based on the proceedings dated 21.05.2015, which is the basis for passing such an order, has been put to challenge before the Madurai Bench of this Court in W.P.(MD).No.669 of 2018, and this Court has passed an order dated 19.11.2011, quashing the said circular. The relevant portion of the order reads as follows:

"47.For a decision on whether the re-fixation is proper, the 2010, 2012 and 2015 proceedings are to be reconciled. A copy of audit objection has not been placed on file. However, proceedings dated 21.05.2015 refers to the objection to the effect that some certain posts classified under the category 'other trade posts' (unskilled) in the annexure to the 2012 letter cannot be considered as technical posts as they do not involve technical skill and therefore, higher category of pay cannot be granted to such categories.

48.While exercise of determining the appropriate categorization of posts is entirely within the domain of the State, such categorization must be seen to be based on proper and appreciable differentia. A comparison of the categorization of 'other trade posts' in proceedings dated 01.10.2012 and Annexure-B of proceedings dated 21.05.2015 would show that not all the posts differentiated as 'other trade posts' have been denied the effect of the pay enhancement.

49.Sixty nine (69) trade posts are covered in proceedings dated 01.10.2012 and



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36 stand excluded in 2015. Upon a comparison of the two lists, I find that among those retained in the technical trade posts in the category of 'cleaners' are fountain cleaner, motor cleaner, pipe line cleaner, pump cleaner, pump house cleaner, reservoir cleaner, and filter beed cleaner, whereas tank cleaner, drain cleaner, silt pucket cleaner and lorry cleaner have been excluded.

4. This Court, in WP (MD) Nos.6705 of 2020 etc. batch, dealt with similar issue, and following the order in W.P.(MD).No.669 of 2018 dated 19.11.2011, disposed of the batch of writ petitions, by order dated 28.02.2023.

5. Since the issue raised in these writ petitions are also same, the above order squarely applies to the present writ petitions. Following the order in W.P.(MD).No.669 of 2018 dated 19.11.2011, these writ petitions are allowed and the impugned order is quashed. No costs. Connected Miscellaneous petitions are closed.

04.07.2023

mrn/mpl
Index : Yes / No
Speaking Order / Non Speaking Order
Neutral Citation:Yes/No



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N.SATHISH KUMAR, J.

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