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W.P.No.15205 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.15205 of 2016
and W.M.P.No.13253 of 2016

Maheswari

... Petitioner

Vs.

1.The Director of Town Panchayats
Kuralagam Buildings, Chennai - 108.

2.The Executive Officer,
Konganapuram Town Panchayat,
Konganapuram, Salem District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 2nd respondent issued in Na.Ka.No.469/2013/A1 dated 02.03.2016 and quash the same and consequently to settle the entire benefits to the petitioner arising out of death of the petitioner's husband namely Annadurai within the prescribed time limit along with reasonable interest from the date of death of his husband till the date of actual realization.



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For Petitioner : Mr.P.I.Thirumoorthy

For Respondents : Mr.T.Chezian
Additional Government Pleader

ORDER

The Petitioner is the wife of the deceased employee Annadurai who was working under the 2nd respondent Town Panchayat. The petitioner seeks for issuance of Writ of Certiorarified Mandamus to quash the proceedings on the file of the 2nd respondent in Na.Ka.469/2013/A1 dated 02.03.2016 and consequentially settle the entire benefits payable to the petitioner consequent upon the death of her husband, within a prescribed time limit, with reasonable interest.

2. The case of the petitioner is that her husband had passed Plus Two along with I.T.I. and was appointed as Fitter with the 2nd respondent herein. As per G.O.Ms.No.762, Finance/Pay cell/Dept dated 20.08.1988 and consequential Government orders passed, the petitioner's husband was entitled to the basic pay of Rs.4000-100-6000. When the petitioner



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approached the 2nd respondent after the demise of her husband, the petitioner was shocked to be served with the impugned order which directed the petitioner to pay a lump sum of Rs.3,28,625 (Rupees Three Lakhs Twenty Eight Thousand Six Hundred and Twenty Five only) towards the excess amount paid to the petitioner's husband. The petitioner has therefore approached this Court to quash the said impugned proceedings on the ground that it was passed without giving any opportunity to the petitioner and the 2nd respondent has no jurisdiction to re-fix the pay scale which had already given effect to in 2013.

3. The respondents have filed a counter stating that the petitioner's husband was erroneously paid excess amount which came to light in the local audit and objections were raised there upon. The respondents justify the impugned order and prayed for dismissal of the Writ Petition.

4. Heard Mr.P.I.Thirumoorthy, learned counsel appearing for the petitioner and Mr.T.Chezian, learned Additional Government Pleader for the



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respondents and perused the materials available on record before this Court.

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5. This Court in identical circumstances, in W.P.(MD)No.669 of 2018 dated 19.11.2021 and W.P.No.12891 of 2015 dated 01.02.2022 held that the refixation based on differentiation within the two categories, when done mechanically and simply as an out fall of audit objection is arbitrary and liable to be set aside. The facts of the present case squarely fit within the ratio laid down by this Court.

6.The above captioned Writ Petition is allowed as prayed for. In so far as the consequential relief of benefits payable to the petitioner, it is disputed by the learned counsel for the respondents on the ground that no amount is payable to the Writ Petitioner and the dispute is only towards the excess amount paid to the petitioner. However, it is open to the Writ petitioner to give a detailed representation to the 2nd respondent claiming any amount payable to her towards the benefits payable consequent to the demise of her husband. On receipt of such a representation from the petitioner, the 2nd



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respondent shall deal with the same on merits and in accordance with the law, without being influenced by any of the observations made in this order.

7. In fine, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

09.06.2023.

Internet: Yes
Index: Yes/No
Speaking order
Neutral Citation: Yes/No
gba

To

1. The Director of Town Panchayats
Kuralagam Buildings, Chennai - 108.
2. The Executive Officer,
Konganapuram Town Panchayat,
Konganapuram, Salem District.



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P.B.BALAJI, J.,

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