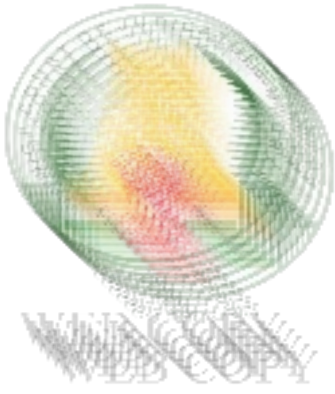




W.P.No.34559 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.34559 of 2015

V.Marimuthu

... Petitioner

-Vs-

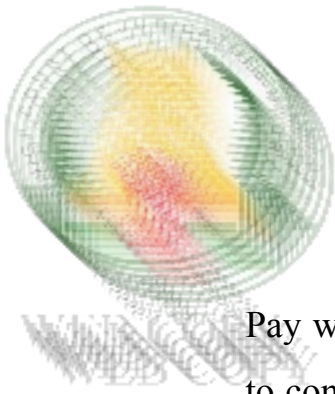
1. The State of Tamil Nadu,
represented by its Principal Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat, Fort St.George,
Chennai 600 009.

2. The Director of Town Panchayat,
Kuralagam,
Chennai 600 108.

3. The Executive Officer,
P.N.Patti Selection Grade Town Panchayat,
Salem District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the third respondent in Na.Ka.No.493/2015 dated 07.10.2015 and the subsequent proceedings issued by the third respondent in Na.Ka.No.493/2015 dated 12.10.2015 and to quash the same in so far as the revision of Scale of



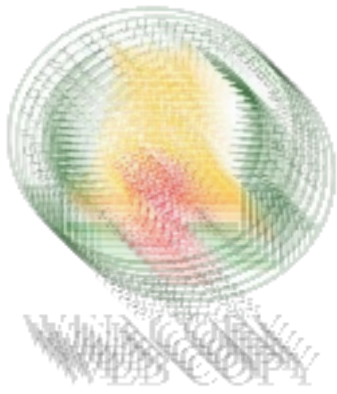
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Pay with consequential recovery and consequently direct the respondent to continue to pay salary to the petitioner as fixed as per the proceedings of third respondent in Na.Ka.No.222/2006 dated 30.01.2013 with all consequential and other attendant benefits.

For Petitioner : Mr.S.Nedunchezhiyan
For Respondents
R1 and R2 : Ms.Akhila Rajendran
Government Advocate
R3 : Mr.R.S.Selvam
for Mr.N.Srinivasan

ORDER

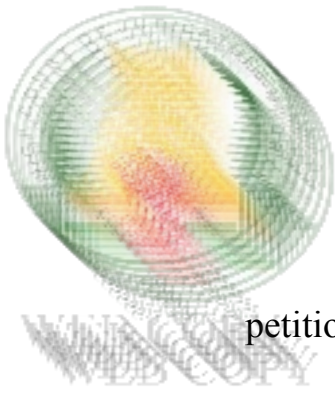
This Writ Petition has been filed calling for the records relating to the impugned proceedings issued by the third respondent in Na.Ka.No.493/2015 dated 07.10.2015 and the subsequent proceedings issued by the third respondent in Na.Ka.No.493/2015 dated 12.10.2015 and to quash the same in so far as the revision of Scale of Pay with consequential recovery and consequently directing the respondents to continue to pay salary to the petitioner as fixed as per the proceedings of third respondent in Na.Ka.No.222/2006 dated 30.01.2013 with all consequential and other attendant benefits.



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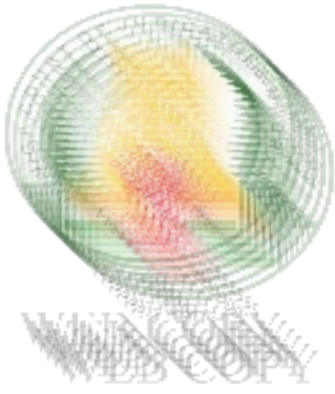
2. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

3. The petitioner was appointed as a Pipeline Fitter in the third respondent through Employment Exchange by an order dated 29.08.1985. The fact remains that the post of Pipeline Fitter was required to be sanctioned and as per the proceedings dated 18.07.1978, by the Superintendent Engineer of TWAD Board. Accordingly, the District Collector passed an order granting permission to fill up the post of Pipeline Fitter in the third respondent Town Panchayat. The petitioner was working as a Pipeline fitter on daily wages. Since he was not regularized, he approached this Court in W.P.No.6567 of 2003. However, the first respondent, by an order dated 22.05.2003 rejected the claim of the petitioner for regularization of service. Therefore, again the petitioner approached this Court in W.P.No.21326 of 2003. This Court by an order dated 08.01.2013, quashed the order passed by the first respondent on 22.05.2003 and directed to regularize the service of the



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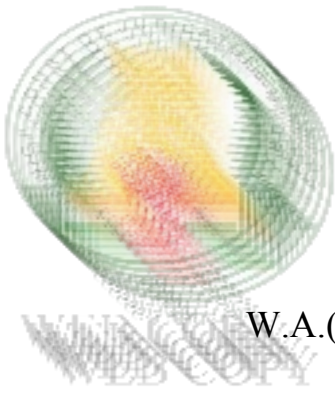
petitioner as Pipeline Fitter from the date of completion of three years of continuous service in the said post and also for grant of monetary benefits. It was not complied with and as such the petitioner was constrained to file a contempt petition in C.P.No.936 of 2014. However, the petitioner was brought into consolidated pay in the post of Pipeline Fitter with effect from 07.09.2000. Notwithstanding the orders passed by this Court, the petitioner was brought into regular time scale of pay with effect from 23.06.2006 as per G.O.Ms.No.60 RD Department and fixed his scale of pay of Rs.3050-75-3950-80-4590. It is also seen that as per G.O.Ms.No.762 Finance Department dated 20.08.1986, prescribed the scale of pay of Rs.610-1075 for the post of Skilled Assistants qualified with SSLC pass with ITI with effect from V Pay Commission Recommendations. It was duly implemented for fixation of scale of pay for the persons working as Skilled Assistant with qualification of SSLC pass with ITI working in Municipalities of Town Panchayats and the same was approved by the Government as per the orders in G.O.Pa.No.123 Municipal Administration and Water Supply Department dated 28.02.2011.



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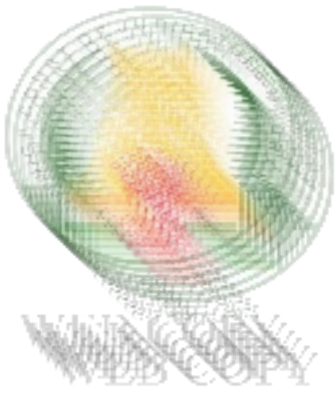
4. As far as the petitioner is concerned, he is also qualified with SSLC pass and ITI holding the post of Skilled Assistant as Pipeline Fitter. Thereafter, the scale of pay has been fixed in accordance with the Government Orders. As per G.O.Ms.142 Municipal Administration and Water Supply Department dated 23.09.2015, direction was issued for regular time scale of pay on completion of three years of service on consolidated pay, the third respondent issued order dated 07.10.2015, granting time scale of pay from 07.09.2003 and the scale of pay has been revised and fixed as Rs.3050-75-3950-80-4590 with corresponding fixation of pay in the revised pay scale as Rs.5200-20200+2400 GP. Now, by the impugned order dated 12.10.2015 to refix the scale of pay of the petitioner with Grade Pay of Rs.2,400/- applicable to the post of Skilled Assistant Grade II based on audit objections and also ordered for recovery of salary paid which was paid from 23.06.2006 to 30.09.2015 to the tune of Rs.2,16,107/-.

5. The third respondent filed counter and revealed that as per the order passed by this Court in W.P.(MD).No.1083 of 2012 and



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W.A.(MD).No.555 of 2010, the services of Municipality and Corporation employees worked on consolidated pay shall be regularized with effect from the date of issue of order dated 23.02.2006. In the light of the order passed by this Court, the Government had accepted the proposal of the Director of Town Panchayat to permit the Executive Officers of Town Panchayat concerned to regularize the services of 2923 employees working in sanitation, water supply and street light maintenance in Town Panchayat who were already brought in the time scale of pay as per the G.O.Ms.No.234, with effect from 23.06.2006 excluding the employees who were already brought in time scale of pay from the date on which they have completed three years of service on consolidated pay due to Court orders, from the date on which they have completed three years of service on consolidated pay and for claiming the arrears of pay from the General Fund of the Town Panchayats concerned subject to the condition that the salary and establishment cost including this expenditure should not exceed 49% of the total revenue of the concerned Town Panchayats and order accordingly.



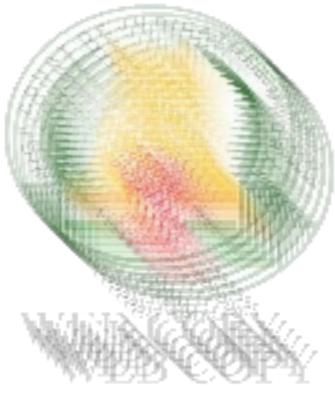
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6. While being so, on receipt of the order from the Assistant Director, Local Fund Audit, Salem dated 18.08.2015, issued direction to the third respondent herein to recover the sum of Rs.2,16,107/- from the salary of the petitioner for the period from 23.06.2006 to 30.09.2015. That apart, before passing the impugned order, the petitioner was not given any opportunity and no notice was issued to him. It is the violation of Principles of Natural Justice and as such the impugned orders cannot be sustained against the petitioner and are liable to be quashed.

7. Accordingly, the impugned proceedings issued by the third respondent in Na.Ka.No.493/2015 dated 07.10.2015 and the subsequent proceedings issued by the third respondent in Na.Ka.No.493/2015 dated 12.10.2015, are hereby quashed. This writ petition stands allowed. There shall be no order as to costs.

12.07.2023

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
mn



W.P.No.34559 of 2015

G.K.ILANTHIRAIYAN, J.

mn

To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Secretariat, Fort St.George,
Chennai 600 009.
2. The Director of Town Panchayat,
Kuralagam,
Chennai 600 108.
3. The Executive Officer,
P.N.Patti Selection Grade Town Panchayat,
Salem District.

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