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W.A.No.2109 of 2018 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE G.ARUL MURUGAN

W.A.Nos.2109 to 2150 of 2018

W.A.No.2109 of 2018:

1.The Government of Tamil Nadu,
Represented by its Addl. Chief Secretary,
Finance (Pay Cell) Department,
Fort St. George, Chennai – 600 009.

2.The Engineer-in-Chief (Buildings) &
Chief Engineer (General),
Public Works Department,
Chepauk, Chennai – 600 005.

... Appellants

Vs.

1.N.Suresh Kumar
2.M.Madan
3.G.Jeyaprabha
4.R.Jeyakumar
5.M.Dhanasekaran
6.T.Vimala Veni
7.R.Saraswathy
8.T.Malathi
9.S.Vetrivel
10.S.Karthikeyan

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying to set aside the common order dated 04.06.2018 made in W.P.No.29097 of 2017.



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State Government issued a consequential Government Order in

G.O.(Ms).No.312 Finance (Pay Cell) Department dated 26.08.2010.

3. By the said Government Order, the State Government granted a revised scale of pay plus grade pay attached to various posts, the revised scale of pay were ordered to come into effect on notional basis from 01.01.2006 for the purpose of fixation of pay and the revised scales of pay and with monetary benefit from 01.08.2010.

4. The employees hitherto had received the benefit under the said G.O.(Ms).No.312, similar G.Os. are issued in respect of various posts.

5. However, still the State Government had received various queries and grievances with regard to the One Man Commission's Report, therefore the Government decided to redress the grievances, therefore in order to find out whether their grievances were genuine or not issued a Government Order in G.O.(Ms).No.71, Finance (Pay Cell) Department dated 26.02.2011.

6. In the said G.O., the State Government had stated that, the



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anomalies arising out of fixation of pay by the One Man Commission have to be rectified and therefore they appointed a Committee headed by R.Thiagarajan, I.A.S., Special Secretary to Finance Department as Chairman of the Pay Grievance Redressal Cell and the said Committee was directed to receive representations and to redress genuine grievance within a period of 3 months.

7. It is to be noted that, in the said G.O.(Ms).No.71, it has also been stated by the Government that, until the Committee's Report is implemented, the earlier scale granted based upon the One Man Commission headed by the Rajeev Ranjan, I.A.S. was cancelled.

8. Therefore, those employees who had received the revised pay as per earlier Government Orders like G.O.(Ms).No.312 pursuant to the One Man Commission's Recommendation since have been stopped by virtue of G.O.(Ms)No.71 dated 26.02.2011, some of those employees had filed writ petitions challenging the validity of G.O.(Ms).No.71 dated 26.02.2011 stopping the benefit that has already been started giving to those employees.



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9. The first writ petition in that batch was W.P.No.7006 of 2011 etc. batch. Those writ petitions were disposed by the Writ Court on 08.03.2012 where the learned Judge had dismissed all those writ petitions as misconceived.

10. As against which, the affected employees filed intra Court appeals in W.A.Nos.504 of 2012 etc. batch.

11. When the said writ appeals etc. batch were pending consideration before the Division Bench of this Court, the Government had issued subsequent Government Orders in G.O.(Ms).No.242 dated 22.07.2013 that was also under challenge in another set of writ petitions, which were holding by the Writ Court.

12. When that being so, when the hearing was taken up by the Division Bench in W.A.No.504 of 2012 etc. batch, those writ petitions challenging G.O.(Ms).No.242 pending before the Writ Court also were taken together i.e., tagged along with the writ appeals and those writ appeals as well as the writ petitions were disposed by a common judgment of the Division Bench of this Court dated 27.02.2014, where



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the Division Bench has reversed the order passed by the Writ Court, however was pleased to appoint an Administrator who was a former Chief Justice of a High Court. Aggrieved over the said order passed by the Division Bench, the employees Association as well as the Government preferred Special Leave Petition which has been converted in Civil Appeals No.10029 of 2017. In the meanwhile, the State Government had issued a proceedings dated 31.10.2017 i.e., after the implementation of the 7th Pay Commission where the Government imposed a condition to the employees that, insofar as the employees who want to get the benefit of the 7th Pay Commission Recommendations and the revision of pay, they have to accept the Government Orders, which were issued by the Government with regard to the 6th Pay Commission implementation, that means the subject matter that was pending before the Hon'ble Supreme Court has to be accepted by the employees then only they would be eligible to get the benefit to be given to them under the 7th Pay Commission Recommendation.

13. Those proceedings issued by the State Government dated 31.10.2017 were under challenge in the present batch of writ petitions i.e., W.P.No.29097 of 2017 etc. batch. The said writ petitions were



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grouped together and disposed by the Writ Court in a common order dated 04.06.2018 where those writ petitions were allowed. Aggrieved over the same, the present set of intra Court appeals have been directed.

14. Subsequently, on 28.11.2019 the Hon'ble Supreme Court disposed those Civil Appeals No.10029 of 2017 etc. batch, where *inter alia* the Hon'ble Supreme Court has passed the following order:

“21.6. It is further directed:

a) Within a week from today, the State Government shall issue appropriate orders constituting the PGRC as stated above.

b) Within a week thereafter, the State Government shall make appropriate and adequate arrangements and provide office space befitting the status of the Chairperson and other Members and also provide adequate staff, secretarial assistance and other facilities.

c) Within two weeks of the constitution of the PGRC all the individuals/associations concerned shall file their representations. No representation filed beyond the period of two weeks shall ordinarily be accepted by the PGRC.

d) Direction (iv) issued by the Division Bench shall stand modified to the aforesaid extent.

e) These directions are in addition to and in further elaboration of direction (vii) issued by the Division Bench.



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22. It is clarified that regardless of the decision to be taken by the PGRC, any amount paid by way of financial benefit extended to and enjoyed by the employees concerned shall not be recovered i.e. to say that in case the decision in pursuance of the recommendations of PGRC results in reduction in pay scales or emoluments as were granted pursuant to G.Os. dated 26.08.2010, such reduction shall be prospective in application from the day the recommendations of PGRC come into effect.

23. It must be stated that the recommendations of the 7th Central Pay Commission have since been made and the issue regarding implementation of such recommendations is presently under active consideration. The present matters which pertain to the recommendations of the 6th Central Pay Commission therefore need to be resolved at the earliest. In the circumstances, we request PGRC to conclude the entire exercise within four months from today. By way of clarification, it is added that the affected categories shall not be permitted to migrate to the 7th Central Pay Commission scales on the basis of the higher scales till such time as the final decision is taken.

24. Lastly, it is clarified that the observations in the present order have been made purely from the standpoint of consideration whether the decision of the State Government in constituting the PGRC was correct or not and not by way of reflection on merits of the matter. The matter shall be



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considered by PGRC and the State Government purely on merits and uninfluenced by any of the observations made by us.

25. With the aforesaid directions these appeals are disposed of without any order as to costs.”

15. As per the said order of the Hon'ble Supreme Court, within a week from the date of the order, the State Government shall issue an appropriate orders constituting a Pay Grievance Redressal Cell and the Pay Grievance Redressal Cell (in short 'PGRC') to conclude the entire exercise within four months from the date of receipt of the order.

16. In implementation of the said order passed by the Hon'ble Supreme Court, the State Government appointed a former Chief Justice of the High Court as Chairman of the PGRC and the said PGRC having deliberated the issue, has given its recommendations to the State Government which had been pending consideration. In order to implement the same, the Government issued series of Government Orders from G.O.(Ms).Nos.399 to 422 dated 12.11.2020 Finance (Pay Cell) Department dated 12.11.2020, in fact that Government Orders also are put under challenge in a separate batch of writ petitions which are still



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pending before this Court.

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17. By tracing the aforestated history of the issue which are before us in this batch of writ appeals atleast one round of litigation is over where a quietus had been given and pursuant to the orders passed by the Hon'ble Supreme Court appointing a PGRC, report has been submitted based on which Government issued series of Government Orders, therefore to that extent it reached the finality, therefore whether the present Government Orders i.e., G.O.(Ms).Nos.399 to 422 dated 12.11.2020 would be sustained or not, is the matter altogether to be decided in the pending writ petitions.

18. However, insofar as the present appeals are concerned, since these appeals arise out of the order passed by the Writ Court dated 04.06.2018 where the proceedings issued by the State Government dated 31.10.2017 were under challenge and those issues since got merged with the orders passed by the Hon'ble Supreme Court, pursuant to which, now it is concluded under G.O.(Ms)Nos.399 to 422 as stated supra, we deem it appropriate to hold that, nothing survives in this batch of writ appeals to be adjudicated further. In view of the above, all these Writ Appeals are



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dismissed by holding so.

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19. We make it clear that, the dismissal of these writ appeals would not make prejudice the interest of both parties as the new issue as of now since has again come up before this Court challenging the G.O.(Ms).Nos.399 to 422 dated 12.11.2020, therefore it goes without saying that, the parties to abide by the orders to be made by the Writ Court in the pending writ petitions challenging the aforesaid Government Orders. However, there shall be no order as to costs.

[R.S.K., J.]

[G.A.M. J.]

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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