



W.A.(MD).Nos.804 to 814 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.12.2023

CORAM

**THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD).Nos.804 to 814 of 2022
and

C.M.P.(MD).Nos.6728, 6729, 6840, 6841, 6843 to 6845, 6847 to 6850,
6852, 6853 to 6855, 6857 to 6861, 6865 to 6867, 6869, 6876, 6877, 6879,
6881, 6882, 6886, 6888 and 6889 of 2022

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- 1.C.Manikandan
- 2.C.M.Edwin Jayakumar
- 3.S.Sivakumar
- 4.C.Aji Kumar
- 5.A.David Raj
- 6.C.John Bosco
- 7.G.Shajimon
- 8.T.Sasi
- 9.P.Jayan
- 10.S.Sreekumar



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11.V.M.Suresh Kumar

12.D.A.Richard Solomon

13.V.Suresh Kumar

14.K. Kumaraswamy

15.T.Ruban

16.V.Pushparaj

17.S.Rajesh

18.J.P.Jemin

19.A.Christopher Jabasingh

20.P.Robinson

.. Appellants 12 to 20/
Petitioners 16 to 24

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Finance Department,
Fort St.George,
Chennai - 600 009.

2.State of Tamil Nadu,
Represented by its Secretary,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai - 600 009.

3.The Director of Town Panchayat,
O/o. the Director of Town Panchayat,
Raja Annamalaipuram, Chennai - 600 028.



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- 4.The Director,
Local Fund Audit,
Integrated Complex for Finance Department,
5th Floor, Saidapet,
Animal Husbandry Hospital Campus,
Nandanam,
Chennai - 35.
- 5.The Executive Officer,
Verkilambi Grade - I Town Panchayat,
Kanyakumari District.
- 6.The Executive Officer,
Thiruvattar Grade - 1 Town Panchayat,
Kanyakumari District.
- 7.The Executive Officer,
Kollamcode Grade Town Panchayat,
Kanyakumari District.
- 8.The Executive Officer,
Athur Grade - II Town Panchayat,
Kanyakumari District.
- 9.The Executive Officer,
Arumanai Grade-1 Town Panchayat,
Kanyakumari District.
- 10.The Executive Officer,
Kulasekaram Selection Grade Town Panchayat,
Kanyakumari District.
- 11.The Executive Officer,
Thiruparappu Selection Grade Town Panchayat,
Kanyakumari District.

.. Respondents 1 to 11/
Respondents



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12.T.Asari

13.T.Manoharan

14.M.David Johnson

15.T.Thansilas .. Respondents 12 to 15/Petitioners 12 to 15

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to allow the Writ Appeal and set aside the order passed in W.P.(MD).No.17700 of 2020 dated 10.01.2022 insofar as the revision of scale of pay is concerned by allowing the Writ Appeal.

For Appellants	: Mr.H.Arumugam for Mr.P.P.Alwin Balan
For R-1 to R-3 & R-5 to R-11	: Mr.Veerakathiravan Additional Advocate General assisted by Mr.SP.Maharajan Special Government Pleader
For R-4	: Mr.T.Amjad Khan Government Advocate

COMMON JUDGMENT

(Judgment of the Court was delivered by V.LAKSHMINARAYANAN,J.)

These Writ Appeals arise against the common order of the learned Single Judge dated 10.01.2022 passed in W.P.(MD).Nos.2205 of 2020 etc., batch.



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2. There is no dispute that all the writ petitioners were working as Over Head Tank Operators, Motor Operators, Helpers, etc., under the Town Panchayat Service cadre. They were originally appointed as NMRs or as daily wages. Their services were subsequently regularised by virtue of the fact they had put in long years of service.

3. The Government appointed a One Man Commission in order to decide on the revision of pay and re-designation of technical posts. As we have already pointed out, none of the petitioners/appellants come within the scope of technical posts. The Government passed an order in G.O.Ms. No.338, Finance (Pay Cell) Department, dated 26.08.2010. As per the recommendation of the One Man Commission dealing with revision of pay scales, it decided to accept the said recommendation of technical employees appointed with I.T.I certificate and those employees, who did not have I.T.I certificate, but had practical experience. The Government decided to merge the unskilled and semi-skilled employees in the trade post and came up with revised pay scales. As luck would have it, the writ petitioners were drawing the scale of pay of Rs.2550-3200, which had been revised to Rs.5200-20200 + 1900 G.P.



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4. The Director of Town Panchayat, taking note of the aforesaid Government Order, decided to give the revised pay scale, which is applicable to unskilled employees, categorised as other trade posts, to the posts in which the writ petitioners were employed. For a period of nearly seven years, the writ petitioners were drawing the revised pay scale as fixed under G.O.Ms.No.338, i.e., to say 5200-20200 + 1900 G.P. This was on the basis of the mistaken understanding of the Government Order by the Director of Town Panchayat in and by way of his proceedings under Na.Ka.No.21256/12/A3 dated 10.06.2013.

5. During the course of audit, the mistake came to light, i.e., the mistake of treating the persons in Tamil Nadu Town Panchayat basic service on par with those under the Tamil Nadu Town Panchayat establishment. In order to rectify this mistake, the order impugned in the Writ Petitions dated 07.10.2020 had been passed.

6. We heard Mr.H.Arumugam representing Mr.P.P.Alwin Balan, learned counsel for the appellants and Mr.Veerakathiravan, learned Additional Advocate General appearing for the respondents.



7. Mr.H.Arumugam would vehemently contend that the category of posts is not mentioned in the Government Order and all that is mentioned is the pay scale and the writ petitioners, who were drawing the same pay scale as mentioned in Clause 5, are entitled to draw the revised pay scales. According to him, the Government had decided to merge the skilled and unskilled persons and gave a new category of other trade posts, i.e., re-designated as unskilled. According to him, since the Government has treated them as unskilled under the Government Order, they are entitled to draw the revised scale of pay and consequently, the impugned order has to be set aside.

8. The learned Additional Advocate General would point out the difference between the qualification that had to be applied to be a skilled worker and the fact that there were employees, who were not qualified educationally, but had obtained the same due to their practical experience. He would also point out that the writ petitioners fall under basic service for which the qualification is only VIII standard pass or X standard fail, whereas, in case of trade post workers, they had to possess a minimum of I.T.I. The mistake committed by the Director of Town Panchayat had only



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been corrected pursuant to the audit and therefore, the decision of the respondents is correct and does not require interference.

9. We have carefully considered the arguments on either side. We are in entire agreement with the learned Additional Advocate General. The writ petitioners are all covered under basic services, namely, services which are governed by Tamil Nadu Town Panchayat Establishment (Qualification and Recruitment of Office Assistants) Rules, 1988, whereas, the trade posts are covered under the Tamil Nadu Town Panchayat Establishment Rules. It is a fortuitous circumstance that the pay that the petitioners were drawing were similar to those who were unskilled, but possessed practical experience. The Director of Town Panchayat had equalized the writ petitioners, who are in basic service, with those in the technical service and had granted the relief to the writ petitioners. This factum had come to light when an audit was done and the mistake committed by the Director of Town Panchayat came to light. This has been rectified by the impugned order in the Writ Petitions.



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10. The writ petitioners, who are VIII Standard pass and X Standard fail, cannot claim to be equivalent to the persons with I.T.I certificate and persons, who did not have I.T.I certificate, but those who had technical qualification by virtue of their practical experience. The idea of merging skilled and unskilled workers was to finally phase out the unskilled assistants till the present incumbents vacate their posts. This benefit which had been granted for persons who are otherwise not technically qualified, but possessed experience, cannot be granted to the writ petitioners, who are in an entirely different service. Therefore, we do not find any error in the impugned order. Accordingly, the Writ Appeals are dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) (V.L.N.,J.)
07.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



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To

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