



W.P(MD)No.8189 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.8189 of 2018
and W.M.P(MD)No.7740 and 7741 of 2018

- 1.L.Ramadoss
- 2.S.Ramakrishnan
- 3.A.Somasundaram
- 4.A.Perumal
- 5.G.Amuthavalli
- 6.C.Ramamurthi

...Petitioners

Vs.

1.The Principal Secretary to Government,,
Handloom, handicrafts, Textiles and Khadi Department,
Fort St.George,
Chennai – 600 009.

2.The Secretary to Government,
Food Safety and Drugs Administration Department,
Fort St.George,
Chennai – 600 009.

3.The Director of Drugs Control,
Sivasankaran Road,
Chokkalingam Nagar,
Teynampet,
Chennai.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari calling for the record pertaining to the impugned letter of the first respondent in Letter No.2928/F1/2016-8 dated 19.12.2017 and consequential letter of the third respondent in Na.Ka.No.2719/Ni 3/2018 dated 13.03.2018 and quash the same as illegal and unlawful.

For Petitioner : Mr.J.Pooventhera Rajan
For Respondents : Mr.A.Sivanu Pandian
Government Advocate

ORDER

Alleging that the petitioner's Special Grade pay was wrongly fixed, an order dated 19.12.2017 came to be passed, whereby the Government had directed the third respondent herein to refix the petitioners' scale of pay and recover the excess payment made. A consequential order dated 13.03.2018 was also passed for recovery of the alleged excess payment.

2. The Hon'ble Supreme Court, in the case of **State of Punjab & Others vs. Rafiq Masih (White Washer)** reported in **AIR 2015 SC 696**, had held that excess payment wrongly made by the Department to the employee, who belongs to Group-C and Group-D, is impermissible



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in law. If that be the legal position, the present impugned orders, alleging that the scale of pay of the petitioners were wrongfully fixed and excess payments have been made, cannot be sustained. Furthermore, it is not in dispute that the petitioners herein, who were serving as Office Assistant, belong to Group-D category and therefore, by applying the ratio laid down in the White Washer's case (supra), such re-fixation and the consequential recovery under the impugned order, cannot be sustained.

3. Accordingly, the impugned proceedings of the first respondent dated 19.12.2017 and the consequential impugned order of the third respondent dated 13.03.2018 are quashed.

4. This Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

04.08.2023

Index : Yes / No
NCC : Yes / No
CM



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BATTU DEVANAND, J.

CM

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