



W.P.(MD).Nos.10401, 10402 and 10403 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.03.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.10401, 10402 and 10403 of 2016

and

W.M.P.(MD).Nos.8110, 8111, 8113 and 8115 of 2016

W.P.(MD).No.10401 of 2016:

R.Kani

... Petitioner

Vs.

1.The Principal Secretary,
Municipal Administration and Water Supply Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

2.The Director,
Office of the Director of Municipal Administration,
Chepauk,
Chennai – 600 005.

3.The Commissioner,
Madurai Corporation,
Madurai – 625 002.

4.The Assistant Commissioner (Personal),
Madurai Corporation,
Madurai – 625 002.

... Respondents



W.P.(MD).Nos.10401, 10402 and 10403 of 2016

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records connected with the proceedings in No.Ma.Ni.2/8805/2014 dated 20.04.2016 on the file of the Respondent No.4 and quash the same as illegal, consequently direct the respondents for not to recover the excess payment of salary from the petitioner and direct the respondents to fix new salary for the petitioner on the basis of the G.O(Ms) No.297 dated 22.07.2013 Finance (Pay Cell) Department and on the basis of the G.O.Ms.No.71 dated 26.02.2011 and G.O.Ms.No.241 dated 22.07.2013 Finance (Pay Cell) Department within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani

For R-1 and R-2 : Mr.R.Suresh Kumar,
Additional Government Pleader.

For R-3 and R-4 : Mr.T.S.Mohammed Mohideen

W.P.(MD).No.10402 of 2016:

M.Kamaraj

... Petitioner

Vs.

1.The Principal Secretary,
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Chennai – 600 009.



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2.The Director,
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3.The Commissioner,
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Madurai – 625 002.

4.The Assistant Commissioner (Personal),
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... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records connected with the proceedings in No.Ma.Ni.2/8805/2014 dated 20.04.2016 on the file of the Respondent No.4 and quash the same as illegal, consequently direct the respondents for not to recover the excess payment of salary from the petitioner and direct the respondents to fix new salary for the petitioner on the basis of the G.O.Ms.No.297 dated 22.07.2013 Finance (Pay Cell) Department and on the basis of the G.O.Ms.No.71 dated 26.02.2011 and G.O.Ms.No.241 dated 22.07.2013 Finance (Pay Cell) Department within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani

For R-1 and R-2 : Mr.R.Suresh Kumar,
Additional Government Pleader.

For R-3 and R-4 : Mr.R.Murali



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W.P.(MD).No.10403 of 2016:

M.Muneer Ahamad

... Petitioner

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For Petitioner : Mr.R.Alagumani

For R-1 and R-2 : Mr.R.Suresh Kumar,
Additional Government Pleader.

For R-3 and R-4 : Mr.T.S.Mohammed Mohideen

COMMON ORDER

The Writ Petitions have been filed challenging the impugned order dated 20.04.2016 and consequently directing the respondents not to recover the excess payment of salary and direct the respondents to re-fix the new salary for the petitioners on the basis of Government Orders.

2. The petitioners were working as Assistant Engineer in the respondent Corporation. The contention of the petitioners is that suddenly the respondents have re-fixed the salary without any notice. The learned counsel appearing for the respondents vehemently submitted that the petitioners are not eligible for



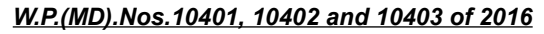
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the grade pay of Rs.5400/ and are entitled to Rs.4600/- only. And also submitted that the petitioners are in service and within five years the wrong fixation was deducted. Hence, the impugned order is sustainable in law. Therefore, the respondents prayed not to interfere in the recovery proceedings. However, the learned counsel appearing for the petitioner submitted that without any notice, the respondents have refixed and disbursing only the refixed salary.

3. According to the respondents, there was modification in the Grade Pay and the petitioners are eligible for the grade pay of Rs.4600/- but the Grade pay was wrongly fixed as Rs.5400/-. But the respondents have not issued any show cause notice before modifying the salary. It is also submitted that the respondents have not recovered the amount, since the writ petition is pending.

4. Therefore this Court is passing the following order:

- i. The impugned recovery order is quashed.
- ii. The respondents shall refix the scale of pay and pay the rectified scale of pay to the petitioners.



5. Hence, the Writ Petitions are partly allowed in above terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

13.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



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S.SRIMATHY, J.

Nsr

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