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W.P.(MD)No.11629 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.11629 of 2016

and

W.M.P.(MD)Nos.8908 and 8909 of 2016

B.Muruganantham

... Petitioner

vs.

- 1.The Principal Secretary to the Government,
Government of Tamilnadu,
Finance (Pay Cell) Department,
Fort St. George,
Chennai-9.
- 2.The Director of Municipal Administration,
Cheppakkam, Chennai-5.
- 3.The Director of Local Fund Audit,
Kurazhagam, Chennai-108.
- 4.The Commissioner,
Trichy Corporation, Trichy.



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5.The Assistant Commissioner,
K.Abishekapuram Zone,
Trichy Corporation, Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for records pertaining to the impugned order passed by the 4th respondent, vide proceedings, Na.Ka.No.C6/3012/2016 (Center), dated 29.04.2016 and to quash the same.

For Petitioner	: No appearance
For R1 to 3	: Mr.P.Thambidurai
	Government Advocate
For R4 and 5	: Mr.R.Baskaran

ORDER

This writ petition is filed for issuance of a writ of Certiorari, to quash the impugned order passed by the 4th respondent, vide proceedings, dated 29.04.2016.



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2. The petitioner was working in the zonal office of the Corporation. The Government implemented 6th pay commission by issuing G.O.Ms.No.234, dated 01.01.2009 and revised the pay scales. As per the said G.O., the petitioner's scale of pay is 4800-10000+1300. Before that the petitioner's scale of pay was 2550-55-3200. On that basis of G.O.Ms.No.234, dated 01.01.2009, the 4th respondent has disbursed the salary. Thereafter, petitioner, the Association and other members submitted a representation stating that the fixation of pay as 4800-10000+1300 is incorrect. Further, during such process of fixation, several pay anomalies had happened and the petitioner claims that their pay scale was wrongly fixed in the 6th pay commission. The Government after receiving such representations from the individuals as well as the Association in order to fix a uniform and correct pay scale, one man commission was appointed. The one-man commission after examining the request recommended to merge semi-skilled employees and unskilled



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employees and to fix the scale as 5200-20200+1900. The semi-skilled Entry Level Grade II Trade posts may be placed one level above the existing scale of pay from Rs.3050-4590 to Rs.3200-4900 (pre-revised) with corresponding revised scale of pay duly re-designating the Grade II trade posts as Skilled Assistant Grade II.

3. Upon receiving the said one man commission report, the respondents issued G.O.Ms.No.338, dated 26.08.2010, by accepting the report. After the issuance of G.O.Ms.No.338, dated 26.08.2010, the 4th respondent corporation also disbursed the amount as per the said fixation of pay stated in G.O.Ms.No.338, dated 26.08.2010, by calculating from 01.08.2010 to 31.08.2012 and the petitioner also received the same. But subsequently the 2nd respondent issued a communication, dated 21.05.2015, wherein it was instructed that the name of 36 posts listed in the Annexure B are cancelled from the category of trade posts and deleted those 36 categories listed as trade posts in letter, dated



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01.10.2012 and consequently, reduced the pay of the scale. Aggrieved over the same, the petitioner and the similarly persons filed several writ petitions. In one such writ petition filed in W.P.(MD)No.2956 of 2016, this Court has granted interim stay the recovery alone. Thereafter, the common impugned order was issued refixing the salary.

4. The contention of the petitioner is that once there is a stay, the respondents cannot issue a refixation order. But it is seen that even according to the petitioner, this Court has granted an interim stay for recovery alone. The interim order is not stating that the respondents are restrained from refixation. In such circumstances, the claim of the petitioner is incorrect. Once the salary is disbursed continuously under the wrong fixation, then recovery would be difficult for the respondents because there are certain conditions for recovery.



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5. Therefore, this Court is of the considered opinion that the impugned refixation is correct. As far as the entitlement is concerned, the petitioner and the respondents can adjudicate the in the pending writ petition W.P.(MD)No.2956 of 2016. If the Court is rendering any finding that the petitioner is entitled to and the original fixation ought to be refixed, then the petitioner can receive the same along with arrears. Until then, the refixation is valid and sustained.

6. With the above said observation, the writ petition is dismissed.
No costs. Consequently, connected miscellaneous petitions are closed.

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

20.04.2023

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S.SRIMATHY, J

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