



W.P.No.179



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.07.2024

Pronounced on : 30.10.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.17911 of 2018

and

W.M.P.No.21209 of 2018

Association of Tamil Nadu Municipal Engineers,
Represented by its President,
36/83, Vengatarangam Pillai Street,
Triplicane, Chennai – 600 005.

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Principal Secretary,
Finance Department, Fort St. George,
Chennai – 600 009.

2. The Commissioner for Municipal Administration,
Chennai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the issue of G.O. 297 Finance (Pay Cell) Department dated 22.07.2013 by the 1st respondent and quash the same and consequently direct the respondents to revise the pay scales of the members of the petitioner, i.e., Assistant Engineers and Assistant Executive Engineers of Tamil Nadu Municipal Engineering Service of Municipalities of the State on par with the pay scales of the engineers of Public Works Department, i.e., Assistant Engineers and Assistant Executive Engineers of Tamil Nadu Engineering Service of Public Works Department with effect from 01.08.2010 whose pay scales were fixed based on the



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recommendation of One Man Commission 2010 as implemented in G.O (Ms) No.312, Finance (Pay Cell) Department, dated 26.08.2010.

For Petitioner

: Mr.N.Subramaniyan

For R1

: Mr.P.S.Raman, Advocate General

assisted by Ms.Niraimathi

For R2

: Ms.E.Ranganayaki,

Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner association formed by the Assistant Engineers and Assistant Executive Engineers of the Tamil Nadu Engineering Municipality Services, working under the control of the Respondent No.2, challenging the orders issued by the Government of Tamil Nadu in G.O (Ms) No.297, Finance (Pay Cell) Department, dated 22.07.2013, whereby the recommendations of the Pay Grievance Redressal Cell in connection with the revised scales of pay, 2009 were implemented and also sought for a consequential direction to revise the pay scales of the members of the petitioner association on par with the pay scales of the Engineers of the Public Works Department, as implemented in G.O (Ms) No.312, Finance (Pay Cell) Department, dated 26.08.2010.

2. Heard Mr.N.Subramaniyan, learned counsel for the petitioner, Mr.P.S.Raman, learned Advocate General assisted by Ms.Niraimathi appearing



for the Respondent No.1 and Ms.E.Ranganayaki, learned Additional Government Pleader appearing for the Respondent No.3

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3. The fixation of pay scales in the cadre of Assistant Engineers, Assistant Executive Engineers and Executive Engineers in the Engineering Departments of the State including Municipal Engineering Service has got a chequered history and in order appreciate the matter effectively, it is necessary to state few background facts:

3.1. The pay scales of Assistant Engineers, Assistant Executive Engineers, Executive Engineers and Superintendent Engineers working in the respondent Corporation, Rural Development and Panchayat Raj Department etc., are always fixed basing upon the pay scales fixed in respect of the said categories working in the Public Works Department of the State. The official committee constituted to fix the pay scales of the employees in question and other employees on par with the 6th pay scale pay fixed reduced the pay scales for the Engineers viz., Assistant Engineers, Assistant Executive Engineers and Executive Engineers and in view of the said anomaly, the One Man Commission was constituted on the representation made by the Engineers throughout the State, recommended for enhanced pay scales for the above said categories and accordingly, the



recommendation of the One Man Commission was accepted resulting in issuance of G.O (Ms) No.312, Public Works Department dated 26.08.2010.

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Basing upon the said Government order, the Government issued another Government Order in G.O (Ms) No.451, Rural Development and Panchayat Raj Department dated 31.12.2010, fixing the pay of the Engineers working in the Rural Development and Panchayat Raj Department.

3.2. Thereafter the said pay scales fixed under G.O (Ms) No.451 dated 31.12.2010 for the posts of Assistant Engineers, Assistant Executive Engineers and Executive Engineers were reduced by issuing G.O (Ms) No.71 dated 26.02.2011. Aggrieved by the said Government Order, various Writ Petitions came to be filed before this Court and though the operation of the said Government Order was initially stayed, later all the batch of Writ Petitions were dismissed in W.P.No.7006 of 2012 and batch by orders dated 08.03.2012, 14.03.2012 and 15.03.2012. Aggrieved by the said orders, a batch of Writ Appeals came to be filed in W.A.No.504 of 2013 and batch and in the said batch, once again the operation of the G.O (Ms) No.71 dated 26.02.2011 was stayed.



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3.3. During the pendency of the Writ Appeals, yet another order in G.O (Ms) No.242, Finance Pay Cell Department dated 22.07.2013, further reducing the pay scales of the above said categories of Engineers basing upon a recommendation made by the pay grievance redressal commission. Again another batch of Writ Petitions came to be filed vide W.P.No.21606 of 2013 and batch. The Writ Appeals filed in W.A.No.504 of 2013 and batch and the Writ Petitions filed challenging the G.O (Ms) No.242, Finance Pay Cell Department dated 22.07.2013 came to be disposed of by a common order by the learned Division Bench of this Court. The learned Division Bench, by an order dated 27.02.2014 while constituting Pay Grievance Redressal Committee (“PGRC”, for short) lead by the former Chief Justice of Chattisgarh High Court, ordered not to implement the above said two G.Os, if they were not already implemented by the date of that order. The said directions issued by the learned Division Bench reads as under:

“51. In such circumstances, the writ appeals and writ petitions are disposed of with the following directions:

(i) The Government shall constitute a Pay Grievance Redressal Committee under the Chairmanship of Hon'ble Mr. Justice A.S.Venkatachalamoorthy, formerly Judge of this Court, who was elevated and retired as Chief Justice of the Chattisgarh



High Court.

(ii) The Government is at liberty to nominate one or two Senior level IAS Officers at the level of Principal Secretary, serving/retired as Member(s) of the Pay Grievance Redressal Committee.

(iii) The Pay Grievance Redressal Committee shall be given specific terms of reference by the Government, with a request to submit a report/recommendations for taking fresh decision regarding the enhancement/reduction of the pay scales/grade pay of 52 or more categories of 20 or more departments, etc.

(iv) The Government is directed to constitute the above said committee within a period of three weeks from the date of receipt of copy of this order, prescribing time limit, within which report/recommendations is to be submitted for taking fresh decision.

(v) In view of the constitution of the above said Committee as ordered above, the implementation of G.O.Ms.No.71 dated 26.02.2011 and G.O.Ms.No.242 dated 22.07.2013 insofar as it affects any category of Government Servants/pensioners/family pensioners, which are not implemented as on today shall not be implemented till fresh decision is taken.

(vi) If any of the categories of Government servants of any department, who have been offered higher scales of pay as on



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today, it is open to the Government to implement the same insofar as the pay scales, which are beneficial to the employees of such categories.

(vii) As we have appointed the Chairman of the PGRC, we direct the Government of Tamil Nadu to make available office premises with supporting staff and to provide a Government car with driver for the use of the Chairman for effective functioning of the Committee.

(viii) We fix the remuneration for the Chairman of the Committee as Rs.1.50 lakhs per month and direct the Government to sanction necessary funds towards remuneration and for meeting other expenses for effective functioning of the Committee.

(ix) It is open to the Government to fix remuneration of the Members/member of the Committee, to be nominated by the Government, if they are retired IAS officer(s).

(x) There is no order as to costs.

(xi) Connected miscellaneous petitions are closed.”

4. Aggrieved by the said order passed by the learned Division Bench, the State as well as other affected parties approached the Hon'ble Apex Court. The Hon'ble Apex Court in C.A.Nos.10029 & 10030 of 2017 passed an order dated 28.11.2019, partially modifying the order passed by the learned Division Bench



in paragraph 51 (v) of its order. The relevant directions issued by the Hon'ble Apex Court are as under:

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“18. But, it has been more than five years since the directions were issued by the Division Bench of the High Court and as a result of the interim orders passed by this Court, the PGRC could not be set up. In the circumstances, certain modifications in the directions issued by the Division Bench in para 5 of its order are called for and we proceed to direct:-

- A) Direction No.(i) as issued by the Division Bench is reiterated except that Mr. Justice A.S.Venkatachalamoorthy having now expressed his unwillingness, Mr.Justice D.Murugesan, formerly Chief Justice, High Court of Delhi is appointed as Chairman of Pay Grievance Redressal Committee.*
- B) Direction No.(ii) as issued by the Division Bench is accepted and it is added that the Chairman of the PGRC will be at liberty to co-opt any two experts as he deems appropriate as members of the PGRC, who shall be paid such honorarium by the State Government, as the Chairman deems appropriate.*
- C) Directon Nos.(iii) and (v) to (vii) issued by the Division Bench are accepted and do not call for any change.*
- D) Instead of R.1.5 lakhs per month, we fix the honorarium*



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of the Chairman of the PGRC at Rs.3.5 lakhs per month by the other parts of Direction No.(viii) are maintained.

E) Direction No.(ix) issued by the Division Bench is accepted and does not call for any change.

F) It is further directed:-

(a) Within a week from today, the State Government shall issued 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 concerned individuals/associations shall file their representations. No representation fled beyond the period of two weeks shall ordinarily be accepted by the PGRC.

(d) Direction No.(iv) issued by the Division Bench shall stand modified to the aforesaid extent.

(e) These direction are in addition to and in further elaboration of direction No. (vii) issued by the Division Bench.



19. 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 concerned employees shall not be recovered i.e. to say that in case the decision in pursuance of the recommendations of the PGRC results in reduction in pay-scales or emoluments as were granted pursuant to GOs dated 26.08.2010, such reduction shall be prospective in application from the day the recommendations of the PGRC come into effect.”

5. In the light of the above, the orders passed by the learned Division Bench of this Court as modified by the Hon'ble Apex Court, as noted above, practically the operation of G.O (Ms) No.242 dated 22.07.2013 and G.O (Ms) No.71 dated 26.02.2011 dated remained suspended and any implementation already made of the said Government Orders was subjected to the report to be submitted by PGRC, as pointed by the Hon'ble Apex Court and further orders to be passed by the Government, basing upon the report of the said PGRC.

6. Pursuant to the orders passed by the Hon'ble Apex Court as noted above, the Pay Grievance Redressal Committee has gone into the matter and a report was submitted to the Government resulting in issuance of G.O.Ms.No,420 Finance (Pay Cell) Department, dated 12.11.2020. The said Government order,



dated 12.11.2020 was again the subject matter of challenge in a batch of writ petitions before a learned Single Judge of this Court. The said batch of writ petitions came to be disposed of by common order dated 04.04.2024, wherein, the learned Judge set aside the impugned Government order therein and reconstituted the PGRC. The matter is now pending for consideration before the PGRC as constituted by an order dated 04.04.2024, by the learned Single Judge of this Court in W.P(MD)No.17163 of 2020 and batch. The learned Single Judge while disposing of the said batch of writ petitions and constituting the new PGRC, directed the maintenance of *status quo* until a fresh decision is taken by the Government based on the recommendations to be given by the new PGRC.

7. In view of the said order passed by the learned Single Judge of this Court read with the orders passed by the learned Division Bench and the Hon'ble Apex Court as noted above, the question of giving effect to the impugned G.O. issued in G.O.Ms.No.242 does not arise. Further, the validity of the said impugned Government order is also subjected to the report to be submitted by the newly constituted PGRC and consequential orders to be passed by the Government with regard to fixation of pay of all the categories in question i.e., Executive Engineer, Assistant Executive Engineer & Assistant Engineer.



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8. From the above, it is evident that the Government Order issued in G.O (Ms) No.71 dated 22.06.2011 and G.O (Ms) No.242 dated 22.07.2013 cannot be given effect to and resultantly, the G.O (Ms) No.312 dated 26.08.2010, issued in respect of the Public Works Department and the Government orders in G.O (Ms) No.451 dated 31.12.2010, issued in respect of the Rural Development and Panchayat Raj Department continue to be in force, thereby entitling the engineers, who are working in the above referred three categories viz., Assistant Engineers, Assistant Executive Engineers, Executive Engineers for drawing the pay scales as fixed under the above Government orders.

9. As already noted above, the present writ petition is filed by an association. An association, as such is not an aggrieved party. While questioning G.O (Ms) No.297, Finance (Pay Cell) Department, dated 22.07.2013, the petitioner is seeking for fixation of pay on par with the Engineers, whose pay scales were fixed under G.O (Ms) No.312, Finance (Pay Cell) Department, dated 26.08.2010.

10. From the above background facts noted herein above, it is evident that the pay scales that were fixed under G.O (Ms) No.312, Finance (Pay Cell)



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Department, dated 26.08.2010 have not become final and now they are the subject matter of enquiry before the One Man Commission pursuant to an order passed in W.P (MD) No.17163 of 2020 and batch dated 04.04.2024. The petitioner association or its members are not aggrieved in strict sense with the impugned G.O (Ms) No.297, Finance (Pay Cell) Department, dated 22.07.2013, but they are seeking for fixation of higher pay scales than the pay scales that were fixed under the impugned Government Order in terms of G.O (Ms) No.312, Finance (Pay Cell) Department, dated 26.08.2010. When the very pay scales that were fixed under G.O (Ms) No.312, Finance (Pay Cell) Department, dated 26.08.2010 are the subject matter in a series of litigations before this Court as well as the Hon'ble Apex Court and the same is under re-consideration, pursuant to an order of remand passed by a learned Single Judge of this Court by an order dated 04.04.2024, in the considered view of this Court, the question of extending such pay scales, which have not become final, to the members of the petitioner association at this stage does not arise. It is not as if the members of the petitioner association herein were extended higher pay scales and then their pay scales were reduced, unlike the Public Works Department and other Departments.



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11. Therefore, in the considered view of this Court, it is not appropriate for this Court to examine, as to whether the pay scales that were fixed under the impugned G.O (Ms) No. 297, Finance (Pay Cell) Department, dated 22.07.2013 is proper or not, at this stage, or to extend the pay scales on par with the Engineers, whose pay were fixed under G.O (Ms) No.312, Finance (Pay Cell) Department, dated 26.08.2010 at this stage, that too, at the instance of the petitioner association. If any individual Engineer or members of the petitioner association is aggrieved by fixation of pay in terms of G.O (Ms) No. 297, Finance (Pay Cell) Department, dated 22.07.2013, it would have been appropriate for such member/ Engineer to come forward before this Court by placing appropriate factual matrix and material in support of their contention, then this Court would be in a position to examine the same, basing upon the facts of the individual cases. But, at the instance of the petitioner association, in the considered view of this Court, it is not possible to examine the correctness or otherwise of the pay scales that were fixed under G.O (Ms) No. 297, Finance (Pay Cell) Department, dated 22.07.2013 at an appropriate stage.

12. The view taken by this Court, as above is also fortified by an order passed by another learned Single Judge of this Court in W.P.No.22666 of 2011



by an order dated 17.08.2023, wherein the similar claim made by the individual Engineers working in the Municipal Engineering Services was negated.

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13. In the light of the above, this Court is of the considered view that the relief sought for in this writ petition, at the instance of the petitioner association, cannot be granted and accordingly, the writ petition is **dismissed**. However, it is made clear that in case, if the pay scales that were fixed under G.O (Ms) No.312, Finance (Pay Cell) Department, dated 26.08.2010 are finalized pursuant to the order dated 04.04.2024 passed in W.P (MD) No.17163 of 2023 and batch or otherwise, then it is open for the aggrieved parties, including the members of the petitioner association, to make an appropriate claim, either before the respondents herein or before this Court, as may be advised in accordance with law. No costs. Consequently, the connected miscellaneous petitions, if any shall stand closed.

30.10.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To



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1. The Principal Secretary to Government of Tamil Nadu,
Finance Department, Fort St. George, Chennai – 600 009.
2. The Commissioner for Municipal Administration,
Chennai.

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MUMMINENI SUDHEER KUMAR, J.
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Pre-Delivery Order made in
W.P.No.17911 of 2018

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