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W.P.No.2319 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P.No.2319 of 2014
and M.P.No.2 of 2014

1. V.Lakshmipathy
2. P Vasantha Kumar
3. R. Umakanthan
4. D.M.M. Tiburtian
5. S.B. Basheer Ahmad Shareef

...Petitioners

Vs.

1. Corporation of Chennai
Rep by its Commissioner Ripon Buildings,
Chennai-600 003.

2. Zonal Officer, Old Zone II
Zone-V Corporation of Chennai,
Basin Bridge, Chennai-600 079.

3. The Joint Director
Local Fund Audit
Greater Chennai Corporation
Chennai-600 003.

[R3-cause title amended as per order
dated 06.06.2014 in W.M.P.No.17340 of 2019]

.. Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified mandamus, to call for the record and quash the order issued by the Respondent -2 in Ma.aa.5/Na.ka.No.A1/1237/12 dated 28.02.2013 and consequential order in Ma.aa 2/vv.Na.aa.2/Na.Ka.N/1962/03 dated 13.10.2003.

* * *

For Petitioners : Ms.N.Beulah John Selvaraj

For Respondents

: Mr.S.Gopinathan
Standing Counsel

ORDER

Challenging the rejection of the request for grant of the benefit of 5% personal pay in tune with G.O.Ms.No.664 dated 24.08.1992, the petitioners are before this Court.

2. It is the contention of the petitioners that they had been appointed as Microscopist (who are termed as lab assistants in the department of public health) in the respondent's corporation on 12.03.1982 (petitioners 1 to 4) and 10.09.1985 (5th petitioner). They



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were placed in the basic scale of pay Rs.295-5-315-10-475 as per the II pay commission. As per the IV pay commission, were placed in the scale of pay Rs.505-10-615-20-795-25-845. Thereafter, it appears that the IV pay commission recommendation was placed before a one man commission vide G.O.Ms.No.716(Finance) (Pay Cell) dated 11.08.1986 in and by which the scale of pay of lab assistant was revised to Rs.610-1075. By his letter dated 01.02.1988, the Director of Public Health and Family Welfare Department had recommended that the Microscopists i.e. Lab Assistants working in the Corporation of Chennai should also get the benefit of this revised pay scale. However, the recommendation was not implemented. Meanwhile, the V pay commission was also implemented in which the scale of pay of lab assistant was revised from Rs.610-1075 to Rs.950-1500 whereas the Microscopists got a pay revision only in the scale of Rs.800-1150. The petitioner had pointed out this anomaly to one man commission. To compensate this anomaly, the Government had issued G.O.Ms.No.664 dated 24.08.1992 granting the petitioner a personal pay



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at 5% of the basic pay to the following categories of staffs.

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i) All categories of staff in the pre revised scales of pay at Rs. 475775 moving over to the revised scale of pay of Rs. 775 - 1030.

ii) All categories of staff in the pre revised scale of pay of Rs. 610-1075 moving over to the revised scale of pay of Rs. 950-1500 or Rs. 975 -1660.

iii) All categories of staff in the pre-revised scale of pay of Rs. 705 -1230 moving over to the revised scale of pay of Rs. 1200 - 2040, and

iv) All categories of staff in the pre-revised scale of pay of Rs. 905-1545 moving over to the revised scale of pay of Rs. 1600-2660.

The petitioners did not get the benefits of this pay scale, despite the lower scale of pay being extended to lab assistants in the Directorate of Public Health (DPH). Thereafter, the Corporation of Madras on the basis of various representations had issued a circular revising the pay scale to various categories of employees, including Microscopists with effect from 01.06.1988 and monetary effect from 01.04.1992. The pay



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scale of microscopists was fixed on par with the Lab assistant of Department of public health i.e, revised from Rs.800-1150 to Rs.950-1500 with effect from 01.06.1988. Therefore, by reason of this circular, the petitioner became entitled to 5% personal pay. Since this was not given to the petitioners, they had given a representation. Thereafter, the finance department had issued a letter dated 23.12.2002 in and by which it was clarified that the petitioner would be entitled to 5% hike and thereafter, the benefit of G.O. was extended to the petitioners who have been paid 5% of personal pay with arrears from 01.09.1998 and 5% of basic pay was added to their pay scale. However, to the utter shock and surprise of the petitioners, the second respondent has issued an impugned order stating that the Local Fund Audit Department Corporation of Chennai has opined that the benefit of the Government Order has been wrongly extended to the petitioners and directing him to recover the arrears that had been paid to the petitioners. The petitioners have challenged this Order by filing W.P.No.29934 of 2003. This Writ Petition was disposed of by setting



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aside the impugned order and stating that it would be open to the petitioners to submit their objections as and when the respondents decided to proceed further on the audit objections. In case, the respondents decided to proceed on the basis of the audit objections, they would proceed further after giving a reasonable opportunity to the petitioners to put forward their case. The petitioners had thereafter participated in the proceedings before the second respondent, who has passed the impugned order stating that the petitioners have not given explanation as to why the amount could not be recovered from them.

3. The respondents have filed a counter in which they would contend that the V pay commission had not recommended that the Microcopists to be paid on par with the lab assistant. The petitioners had given a representation and after obtaining the remarks from the Finance Department, 5% personal pay was sanctioned and paid to the petitioners. However, the Local Fund Audit objected to the same. They had taken a categorical stand that the Microcopists and persons of



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the similar field of work were not eligible to 5% personal pay. They had also contended that G.O.Ms.No.664 was extended to those employees who have drawn the old scale of pay i.e. prior to 01.06.1988 and moved to the new scale of pay with effect from 01.08.1992. The following is the new scale of pay stated in the counter affidavit.

Scale of Pay

Old (Prior to 01.06.1987)	New (w.e.f. 01.08.1992)
(1) Rs.475-775	Rs.775-1030
(2) Rs.610-1075.	Rs.950-1500
(3) Rs.705-1230.	Rs.1200-2040
(4) Rs.905-1545.	Rs.1600-2660

Therefore, they had stated that since the petitioners does not come within the scale of pay prescribed in the G.O in question, they are not entitled to the pay revision.

4. Heard the learned counsels and perused the materials available on record.



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5. A perusal of G.O.Ms.No.664 dated 24.08.1997 indicates that the following categories of persons would be entitled to personal pay of 5% of basic pay as cited supra. Thereafter, it appears that the Government had constituted a committee for recommending the revision of scale of pay for certain categories of employees in the Corporation of Chennai. Pursuant to the recommendation, the Government had issued G.O.Ms.No.582, Finance (Pay Cell)Department dated 01.08.1992 in and by which the Microscopists /Lab Assistant drawing pay scale of Rs.800-15-1010-20-1150 was enhanced to Rs.950-20-1150-25-1500. A clarification was thereafter sought for regarding the grant of personal pay ordered to be paid under G.O.Ms.No.664. The clarification had been provided by the letter of the Secretary to the Government to all departments, bearing Letter No.106614/1 C/92-1, dated 30.09.1992 as follows:-

<i>POINTS RAISED.</i>	<i>CLARIFICATION ISSUED</i>
<i>1. Whether the Personal Pay</i>	<i>The Personal Pay ordered in</i>



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<i>ordered in the G.O. cited may be applied only to the categories of Record Clerks Junior Assistants/Assistants and Superintendant.</i>	<i>the G. O. cited is applicable to all categories of employees in the Scale of Pay mentioned in para 4(1) to 4(iv) in G.O. Ms.No.664 Finance, dated 24.8.1992. Irrespective of whether they are Ministerial or other Categories.</i>
<i>2. Whether the Special Grade Assistant on the scale of Pay of Rs.1640-2900 is eligible for personal pay</i>	<i>The Personal Pay ordered in the G.O. cited is applicable to the employees in the revised selection grade and special grade of the categories mentioned in para 4(1) to 4(iv) of the G.O.cited.</i>

Therefore, from the above clarification, it is crystal clear that G.O.Ms.No.664 does not apply to Ministerial personnel alone but also to other categories drawing the pay scale as prescribed in G.O.Ms.No.664. Admittedly, the petitioners are now drawing the scale of pay as prescribed in Clause 4(2) of G.O.Ms.No.664 dated 24.08.1992. Therefore, the very audit objection is contrary to the G.O issued and the action of recovering the same is without any legal basis. Accordingly, the Writ Petition is allowed. The order of the second respondent is quashed. There shall be no order as to costs.



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Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Internet : Yes

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To

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2. The Zonal Officer, Old Zone II
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