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W.P.(MD) No.17163 of 2020
etc. cases

In the High Court of Judicature at Madras

Reserved on : 05.2.2024	Delivered on : 04.4.2024
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

**Writ Petition (MD) Nos.17163, 17164, 17165, 17167,
17168, 17170, 17171, 17172, 17173, 17174, 17175,
17176, 17177, 17178, 17179, 17181, 17624, 17625,
17649, 18107, 18109, 18533, 18535, 18552, 18555,
18558, 18561, 18564, 18566, 18568, 18571, 18758,
19465 & 19606 of 2020;
54, 56, 60, 63, 64, 67, 4014 & 4029 of 2021; &**

**Writ Petition Nos.17947, 18261, 18829,
19049, 19053, 19114, 19137, 19180, 19190,
20007, 20397, 20398 & 20401 of 2020;
299, 729, 1197, 1205, 1470, 1508, 1516,
2403, 2571, 2699, 2705, 2932, 3182, 3653, 3700, 4933,
6346, 6784, 10632, 20505, 20509 & 20513 of 2021; &
2972, 2975, 2979, 2982, 2985,
7301, 7310, 25693 & 34571 of 2022
and all connected pending WMPs**

W.P.(MD) No.17163 of 2020 :

H.Idayathullah

Vs

...Petitioner

1.State of Tamil Nadu, rep.by
the Additional Chief Secretary
Finance Department,
Fort St. George, Chennai-9.



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2.State of Tamil Nadu, rep. by
the Agricultural Production
Commissioner & Principal
Secretary to Government,
Fort St.George, Chennai-9.

3.The Director of Agriculture,
Ezhilagam, Chennai-5.

...Respondents

Prayer in W.P.(MD) No.17163 of 2020 :

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent relating to the impugned order dated 12.11.2020 passed by the first respondent in G.O.Ms.No. 401, quash the same and consequently direct respondents 1 to 3 to grant revision of pay scale in terms of G.O.Ms.No.303 dated 11.10.2017 issued by the first respondent from the present pay band as fixed in G.O.Ms.No.448 dated 30.10.2010 without reckoning the pay band fixed under G.O.Ms.No.242 dated 22.7.2013 together with all consequential benefits flowing therefrom.

For Petitioners in
WP(MD) Nos.17163 to
17165, 17167, 17168, 17170
to 17179, 17181, 18107,
18109 & 18571 of 2020 &
W.P.Nos.20398 of 2020 &
1508, 3653 & 3700 of 2021 :

Mr.V.Prakash, SC for
Mr.Swarnam J.Rajagopalan



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For Petitioners in W.P.Nos.
17947 & 20401 of 2020

: Mr.N.L.Rajah, SC for
Ms.S.Varsha

For Petitioners in
W.P.Nos.18261 & 20007 of
2020, 2932 & 3182 of 2021

: Mr.V.Karthic, SC for
Ms.Vedavallikumar

For Petitioners in W.P.Nos.
18829, 19049, 19053, 19114,
19137, 19180 & 19190 of
2020, 299 & 1516 of 2021

: Mr.Naveen Kumar Murthi

For Petitioners in
W.P.No.20397 of 2020 &
W.P.(MD) No.18533 of 2020

: Mr.MA.Gouthaman

For Petitioners in W.P.Nos.
729 & 1470 of 2021 &
W.P.(MD) No.18535 of 2020

: Mr.N.Subramaniyan

For Petitioners in
W.P.Nos.1197, 1205, 2699 &
2705 of 2021 &
W.P.(MD) Nos.54, 56, 60, 63,
64, 67, 4014 & 4029 of 2021

: Mr.R.Prem Narayan

For Petitioners in
W.P.Nos.2403 & 2571 of 2021 &
W.P.(MD) No.18758 of 2020

: Mr.G.Sankaran, SC for
Mr.M.Habeeb Rahman



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For Petitioners in
W.P.No.4933 of 2021 : Mr.P.Rajendran

For Petitioners in
W.P.Nos.6346, 6784 & 10632
of 2021 & 34571 of 2022 &
W.P.(MD) Nos.19465 & 19606
of 2020 : Mr.M.Muthappan

For Petitioners in W.P.Nos.
20505, 20509, 20513 of 2021
& 2972, 2975, 2979, 2982,
2985, 7301 & 7310 of 2022 : Mr.M.Elango

For Petitioners in
W.P.(MD)Nos.17624 &
17625 of 2020 : Mr.VPK.Gowtham

For Petitioner in
W.P.(MD)No.17649 of 2020 : Mr.S.Karunakar

For Petitioners in
W.P.(MD) Nos.18552, 18555,
18558, 18561, 18564, 18566
& 18568 of 2020 : Mr.Raja Karthikeyan

For Petitioners in WP.No.
25693 of 2022 : Mr.C.Iyyapparaj

For State : Mr.C.S.Vaidyanathan,
Senior Counsel assisted by
Ms.C.N.G.Niraimathi



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For Greater Chennai
Corporation

: Mr.S.Gopinathan

COMMON ORDER

These writ petitions have been filed challenging the respective Government Orders whereby the State Government took a decision to re-fix the Pay Band/Grade Pay based on the findings and the recommendations of the Pay Grievance Redressal Committee, 2019 (for short, the PGRC-2019) and for other consequential reliefs.

Background facts leading to filing of these writ petitions :

2. The Central Government took decisions on the recommendations of the Sixth Central Pay Commission. An Official Committee was constituted vide G.O.Ms.No.358 dated 20.8.2008 to examine and make necessary recommendations for the implementation of the revision of scales of pay and allowances of the State Government employees and Teachers based on the decisions of the Central Government on the recommendations of the Sixth Central Pay Commission. The Official Committee, which was constituted, was chaired by the Principal Secretary to Government, Home Department along with three other Principal Secretaries belonging to (i) the Finance

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Department; (ii) the Personnel and Administrative Reforms Department; and (iii) the School Education Department.

3. The Official Committee submitted its report to the State Government on 27.5.2009 recommending the revision of scales of pay to the employees on a 'pay scale to pay scale basis'. The recommendations were accepted by the Government and G.O.Ms.No. 234, dated 01.6.2009 was issued wherein the Tamil Nadu Revised Scales of Pay Rules, 2009 (for brevity, the Rules) were notified.

4. In the said Government Order dated 01.6.2009, the Government took note of the fact that the same Grade Pay was allowed to the employees in Pay Band - 2 from Rs.5000-8000 to Rs.6500-10500 in the Government of India and thereby modified the Grade Pay as shown below so as to maintain the existing local relativity :

<i>Existing Scale of Pay (w.e.f. 01.1.1996) Rs.</i>	<i>Revised Pay (Pay Band) Rs.</i>	<i>Revised Grade Pay Rs.</i>
<i>5000-8000</i>	<i>9300-34800</i>	<i>4,200</i>
<i>5300-8300</i>	<i>9300-34800</i>	<i>4,300</i>
<i>5500-9000</i>	<i>9300-34800</i>	<i>4,400</i>



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<i>Existing Scale of Pay (w.e.f. 01.1.1996) Rs.</i>	<i>Revised Pay (Pay Band) Rs.</i>	<i>Revised Grade Pay Rs.</i>
5900-9900	9300-34800	4,500
6500-10500	9300-34800	4,600
6500-11100	9300-34800	4,700

5. Further, in paragraph 1(ii)(a) of the said Government Order, by considering the revision of scale of pay of Assistant Section Officers in Tamil Nadu Secretariat Service from Rs.5500-9000 to Rs.6500-10500 and following the directions of the Hon'ble Supreme Court, the Government had decided to revise the scale of pay of Ministerial Superintendents (Rs.5700-9200) one level above the Assistant Section Officers (Rs.6500-10500), but below the existing next higher scale of pay of Rs.8000-13500. Accordingly, the Government directed that the scale of pay of Ministerial Superintendents should be revised by evolving a new scale of pay of Rs.7000-11500 in the pre-revised scale duly granting the corresponding revised scale of pay in Pay Band-2 in the revised pay structure (i.e) Rs.9300-34800 with Grade Pay of Rs.4,800/- with effect from 12.12.2007.



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6. In addition, in paragraph 1(ii)(c) of the said Government Order, the Government ordered that consequent on the revision of scale of pay of Superintendents as Rs.7000-11500 in the pre-revised scale, there is an imperative need to place the promotion posts for Superintendents, which are in the existing pay scale of Rs.6500-10500 such as Tahsildars, Block Development Officers, Junior Administrative Officers, Assistant Accounts Officers, etc., on a scale of pay above that of Superintendents. Therefore, the Government decided to place these posts on a new pay scale of Rs.7500-12000 in the pre-revised scale and to grant corresponding scale of pay in the revised pay structure. Accordingly, the Government directed that the promotion posts for the Superintendents should be granted the revised scale of pay of Rs.8300-34800 with Grade Pay of Rs.4,900/- with effect from 12.12.2007. In paragraph 24, the Government accepted the recommendations of the Official Committee that the anomalies in the pay scales pointed out by various employees' associations/individual employees to the Committee should be examined by the Government separately.



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7. The revised pay scales/special time scales of pay/consolidated pay/fixed pay/honorarium were revised notionally with effect from 01.1.2006 and with monetary benefit from 01.1.2007. 28 standard pay scales were revised on 'pay scale to pay scale basis' under four Pay Bands as per Schedule I to the Rules.

8. As stated supra, the Government wanted to address the grievance of various employees' associations/individual employees on the pay anomalies based on the representations received from them. Accordingly, the One Man Commission (OMC) was constituted vide G.O.Ms.No.444, dated 09.9.2009 to look into the representations on the anomalies, if any, consequent upon the implementation of the revised scales of pay or in the method of fixation of pay in the revised pay structure or other benefits on pay revision of Teachers, Assistant Engineers and other categories of Government employees.

9. This OMC was headed by Mr.Rajiv Ranjan, IAS, Principal Secretary to Government, Commercial Taxes and Registration Department. The OMC submitted its report to the Government on 31.3.2010. As per its recommendations, it was considered granting of



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pay scale of Rs.9300-34800 with Grade Pay of Rs.4,700/- to the Assistant Engineers to be an anomaly and in the course of addressing the anomaly, the OMC took cognizance of the fact that the professionals like Veterinary Assistant Surgeon, Assistant Medical Officer (Indian Medicine), Assistant Public Prosecutors were granted Pay Band-3 with Grade Pay of Rs.5,400/- and recommended placing the Assistant Engineers in Public Works Department in Pay Band-3. Accordingly, the pay scales of the higher post of Assistant Engineer namely the Assistant Executive Engineer and the Executive Engineer were revised respectively from Rs.15600-39100 + GP Rs.5400 to Rs.15600-39100 + GP Rs.6600 and Rs.15600-39100 + GP Rs.6600 to Rs.15600-39100 + GP Rs.7600 notionally with effect from 01.1.2007.

10. The State Government issued department-wise Government Orders in G.O.Ms.Nos.254 to 340 since the revised pay scale recommended by the OMC was also extended to the allied categories of posts in certain departments.

11. Originally, the Agricultural Engineering Department was a part of the Agriculture Department. Subsequently, it was carved out



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into a separate department. The posts of Agricultural Officer/Horticulture Officer, Assistant Director of Agriculture/Assistant Director of Horticulture, Deputy Director of Agriculture/Deputy Director of Horticulture and Joint Director of Agriculture/Joint Director of Horticulture are equivalent to the posts of Assistant Engineer, Assistant Executive Engineer Executive Engineer and Superintending Engineer respectively, in the Agriculture Engineering Department. Therefore, the Agricultural Officers made representations to extend the higher scale of pay granted to Assistant Engineers in Agricultural Engineering Department on the ground of equation of posts and that they are also professionally qualified and should be treated on par with engineering graduates.

12. Further, representations were made by the Research Assistant, etc., in the Animal Husbandry Department and the Inspector of Fisheries in the Fisheries Department claiming parity with Agricultural Officers, Assistant Engineers, etc., in the Rural Development Department and the Junior Electrical Inspector, etc., in the Electrical Inspectorate claiming parity with the Assistant Engineers in the Public Works Department. Therefore, the revised pay scale



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granted to the Assistant Engineers by the OMC were extended to the following :

<i>Department</i>	<i>Government Order</i>
<i>Agriculture</i>	<i>G.O.Ms.No.448</i>
<i>Fisheries</i>	<i>G.O.Ms.No.450</i>
<i>Rural Development & Panchayat Raj</i>	<i>G.O.Ms.No.451</i>
<i>Electrical Inspectorate</i>	<i>G.O.Ms.No.452</i>

13. During February 2011, a spate of writ petitions started pouring in from other equivalent categories to extend the higher scale of pay as was granted to the Assistant Engineers/Agricultural Officers, etc. The State Government realized that it was a mistake to have accepted the recommendations of the OMC without considering its impact on horizontal parity with equivalent categories in other departments. The State Government came to the conclusion that the extension of similar parity for other departments with consequential upward revision for the promotional post in each of those departments also disturbed the vertical pay parity and the age old system of keeping the sub-divisional posts and Group I posts one level above the sectional level posts of Assistant Engineer, Assistant Executive Engineer, etc., which are the feeder categories to their sub-divisional



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level posts like Assistant Executive Engineer, Assistant Director, etc.

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14. In order to set right the whole issue and to avoid discontent among the employees, the State Government felt that there was an imperative need to re-examine the revised scale of pay of engineers, and other equivalent posts based on the recommendations of the OMC and the subsequent Government Orders issued accepting the recommendations of the OMC.

15. The State Government issued G.O.Ms.No.71, dated 26.2.2011 downgrading the Pay Band and Grade Pay in 52 categories of posts in 20 departments thereby the Government restored the pay to a level lower than the level that was prescribed by the recommendations of the OMC. The Government also took a conscious decision to waive the excess payments already disbursed.

16. The above decision taken by the State Government led to the first round of litigation where writ petitions were filed challenging the orders issued in G.O.Ms.No.71, dated 26.2.2011 by the beneficiaries of the earlier Government Orders. This batch of writ



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petitions was dealt with in W.P.No.7006 of 2011 etc. cases and they were dismissed by a learned Single Judge of this Court by a common order dated 08.3.2012 in the following terms :

"31. Therefore, the contentions raised by the petitioners in assailing the impugned order do not stand any legal scrutiny. It is not as if the State Government was unmindful of the grievances projected not only the Group represented by the petitioners but also others. As noted already, in the communication sent on 7.3.2012, it was stated that the Government is at present having 500 grievances regarding pay anomaly and they are willing to appoint a new committee for the purpose of examining those grievances and submitting a report within a time frame and thereafter for considering these recommendations, the Government will issue appropriate orders.

32. In the light of the Pay Grievance Redressal Cell headed by R.Thiyagarajan, I.A.S not being available, a direction is issued to the State Government to implement paragraph 5 of the letter dated 7.3.2012. A decision in this regard shall be taken within four weeks and thereafter the said Committee will proceed to hear the grievance of all persons including the petitioners.

33. The Writ Petitions are misconceived and bereft of legal reason. In the result, except the aforesaid directions, all the Writ Petitions stand dismissed."



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17. The second round of litigation started when appeals were filed before the Division Bench in W.A.Nos.504 of 2012 etc. cases aggrieved by the said common order dated 08.3.2012 in W.P.No.7006 of 2011 etc. cases. While entertaining the said writ appeals, on 27.3.2012, an interim order was granted staying the implementation of G.O.Ms.No.71, dated 26.2.2011 and the operative portion at paragraph 32 of the said common order dated 08.3.2012 in W.P.No. 7006 of 2011 etc. cases relating to constitution of the Pay Grievance Redressal Committee (PGRC-2012) was not stayed.

18. In view of the above, the PGRC-2012 was constituted by the State Government vide G.O.Ms.No.123, dated 10.4.2012 to examine all the representations that were received and also the further representations, if any, from the employees' associations/individual employees including the aggrieved petitioners relating to anomalies in the revised pay structure of the respective posts. The PGRC-2012 was constituted with three officers in the Finance Department headed by the Secretary (Expenditure), who was the Chairman and two other members, who were the Additional Secretary and the Joint Secretary to Government. The PGRC-2012 started calling for the objections and



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ultimately, heard various representations and submitted its report dated 19.10.2012.

19. The recommendations made by the PGRC-2012 were accepted by the State Government and G.O.Ms.No.242, dated 22.7.2013 was issued. The Government mainly took into consideration the level of Assistant Engineer in the Central Public Works Department (CPWD) and consequential changes were made thereon by endorsing/modifying the scales of pay of certain categories ordered in G.O.Ms.No. 71, dated 26.2.2011 and directed the revision of scales of pay for the respective posts in the respective departments. The revision of scales of pay was ordered to take notional effect from 01.1.2006/12.12.2007, as the case may be and with monetary benefit from 01.4.2013. The excess payments, if any, made to the employees were decided to be waived. The applicability of the revised scales of pay was also subjected to the outcome of the final verdict in the connected cases that were pending before this Court.

20. The said Government Order in G.O.Ms.No.242, dated 22.7.2013 was also challenged by way of filing writ petitions. Hence,



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those writ petitions were also tagged along with the pending writ appeals in W.A.No.504 of 2012 etc. cases. This batch of writ appeals was heard and disposed of by the Division Bench by a common judgment dated 27.2.2014, the relevant portions of which are extracted as hereunder :

"50. As we found illegality in not following the principles of natural justice, before reducing the scales of pay, it is necessary that the matter is to be considered afresh by the Government after giving opportunity to all concerned especially, for reducing the scale of pay/grade pay. It is not in dispute that if really there is any pay anomaly, the Government is entitled to remove the same by following the due procedures. As rightly contended by the learned Senior Counsels and other learned counsels for the petitioners, the One-Man Committee and the PGRC appointed by the Government, all its members are Government Officers and they have already decided to reduce the pay scales of 52 categories of 20 departments, including pensioners and family pensioners in those departments, it may not be appropriate again to permit the Government to reconsider the issue on the recommendations of the Government officials alone. At this juncture it is relevant to note that the Central Government appointed retired Judge of the Hon'ble Supreme Court to head the V Central Pay Commission. Similarly, a retired Judge of Hon'ble Supreme Court was appointed as the Chairman of VI Central Pay Commission. The Hon'ble Supreme



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Court appointed a retired Judge of this Court to consider the pay anomaly among the Judicial Officers/Judicial Pensioners at All India level. It is also not disputed that while extending the Pay Commission benefits, the technicalities as well as the legal issues regarding the claim of Equal Pay for Equal Work, qualifications, nature of duties etc. are also to be analysed and considered. Hence, we are of the view that it is just and appropriate to appoint a retired Judge to head the Pay Grievance Redressal Committee.

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 Chattishgarh 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



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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 26.2.2011 and G.O.Ms.No.242 dated 22.7.2013 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 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)."



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21. The third round of litigation started by way of filing special leave petitions before the Apex Court both by the individuals as well as the State Government in S.L.P.(Civil) Nos.35679 to 35838 of 2014. The said special leave petitions were entertained and the Apex Court granted an interim order on 16.1.2015 staying the operation of the impugned common judgment dated 27.2.2014 in W.A.No.504 of 2012 etc. cases passed by the Division Bench of this Court to the extent the fresh Pay Grievance Redressal Committee was directed to be set up.

22. In the meanwhile, the Seventh Central Pay Commission submitted its recommendations and the Central Government took certain decisions. In order to examine the recommendations of the Seventh Central Pay Commission and make necessary recommendations regarding revision of scales of pay and allowances for the State Government employees and Teachers including the employees of the Local Bodies and revision of pension, family pension and retirement benefits, the State Government constituted an Official Committee vide G.O.Ms.No.40 dated 22.2.2017 and it submitted a report to the Government on 27.9.2017. The Government decided to accept the said report dated 27.9.2017 and issued G.O.Ms.No.303

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dated 11.10.2017 and notified the Tamil Nadu Revised Pay Rules, 2017 to come into force notionally with effect from 01.1.2016 and with monetary benefits from 01.1.2017.

23. Consequently, G.O.Ms.No.328 dated 31.10.2017 was issued to implement the recommendations of the Official Committee, 2017 on revision of pay, pension in respect of employees drawing higher pay and pension based on court orders. Accordingly, all the categories of employees, who had filed court cases and were drawing higher scales of pay/pension by virtue of court orders, were permitted to migrate to the revised pay structure based on the pay ordered in G.O.Ms.No.242 dated 22.7.2013. Therefore, such employees were permitted to either exercise option to revise their pay in line with G.O.Ms.No.242 dated 22.7.2013 or to continue to draw the pay being drawn by them based on the interim order of the court, whichever is financially advantageous to them. The option to be taken was subjected to the outcome of the final verdict in the cases pending before the court.

24. Pursuant to that, W.P.No.29097 of 2017 etc. cases were filed challenging G.O.Ms.No.328 dated 31.10.2017 and seeking for other



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consequential reliefs. These writ petitions were disposed of by a learned Single Judge of this Court by a common order dated 04.6.2018, the relevant portions of which, are extracted as hereunder:

"19. In the cases on hand, as mentioned above, among the Assistant Engineers, Assistant Executive Engineers, Executive Engineers, Agricultural Officers, Horticultural Officers, etc., simply for the reason that some persons or one category of employees approached this Court challenging the G.O.Ms.No.71 dated 26.2.2011 and G.O.Ms.No.242 dated 22.7.2013 and some failed to come, the State cannot create two distinct classes, as the same is unfair, unjust and illegal.

20. Secondly, the Division Bench in its judgment dated 27.2.2014 directed the respondents not to implement the G.O.Ms.No.71 dated 26.2.2011 and G.O.Ms.No.242 dated 22.7.2013 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 and in the Special Leave Petitions filed by both the petitioners and the respondents, the Apex Court has not granted stay of the operation of the judgment in paragraph-51(v). Therefore, the law laid down by a Constitution Bench of the Apex Court in Madan Mohan Pathak v. Union of India & others, MANU/SC/0253/1978 : AIR 1978 SC 803 would squarely apply to the cases on hand, wherein it is held that the writ of mandamus once issued by the High Court under Article 226 is bound to be obeyed, for, so long as the judgment stands, it



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cannot be disregarded or ignored and it must be obeyed and that the rights became crystallised in the judgment sought to be enforced. The relevant portions of the judgment of the Apex Court read thus:-

'.....But the writ of mandamus issued by the Calcutta High Court directing the Life Insurance Corporation to pay the amount of bonus for the year 1st April, 1975 to 31st March, 1976 remained untouched by the impugned Act. So far as the right of Class III and Class IV employees to annual cash bonus for the year 1st April, 1975 to 31st March, 1976 was concerned, it became crystallised in the judgment and thereafter they became entitled to enforce the writ of Mandamus granted by the judgment and not any right to annual cash bonus under the settlement. This right under the judgment was not sought to be taken away by the impugned Act. The judgment continued to subsist and the Life Insurance Corporation was bound to pay annual cash bonus to Class III and Class IV employees for the year 1st April, 1975 to 31st March, 1976 in obedience to the writ of Mandamus.

It is necessary to remember that we are dealing here with a case where a constitutionally guaranteed right is sought to be enforced and the protection of such right should not be allowed to be defeated or rendered illusory by legislative stratagems. The courts should be ready to rip open such stratagems and devices and find out whether in effect and substance the legislation trenches upon any fundamental rights. The encroachments on fundamental rights are often subtle and sophisticated and they are disguised in language



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which apparently seems to steer clear of the constitutional inhibitions. The need for a perspective and alert Bar is, therefore, very great and the courts too have to adopt a bold and dynamic approach, if the fundamental rights are to be protected against dilution or erosion.....'

21. Thirdly, what could not be achieved by the respondents through G.O.Ms.No.71 dated 26.2.2011 and G.O.Ms.No.242 dated 22.7.2013 cannot be allowed to be achieved by the impugned G.O.Ms.No.328 dated 31.10.2017 asking the petitioners to exercise their option either to revise their pay in the revised pay structure or to continue to draw the pay which is drawn by them based on the interim orders of the Court whichever is financially advantageous to them and such option would be subject to the outcome of the final verdict in the Court cases pending in both the Supreme Court and High Court. The impugned order, having been issued after the judgment of the Division Bench dated 27.2.2014 in W.A.Nos.504 of 2012 etc., batch, is wholly unsustainable in law, for the reason that when all the petitioners have succeeded before the Division Bench in W.A.Nos.504 of 2012 etc., batch and obtained an order with a specific direction that the G.O.Ms.No.71 dated 26.2.2011 and G.O.Ms.No.242 dated 22.7.2013 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 by the Pay Grievance Redressal Committee. In this context, the judgment of the Privy Council in Nazir Ahmed v. King Emperor, MANU/PR/



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0111/1936 : AIR 1936 PC 253(2) following the Chancellor decision in Taylor v. Taylor, 1875 (1) Ch.D. 426, can be usefully referred to, wherein it has been held that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. In the light of the above, since the Division Bench, as discussed above, taking the effect of G.O.Ms.No.71 dated 26.2.2011 and G.O.Ms.No.242 dated 22.7.2013 on the petitioners/pensioners/family pensioners, had issued a mandamus not restricting to the appellants/petitioners before it, but passed a judgment to cover up all the persons coming under the categories covered in both the G.O.Ms.No.71 dated 26.2.2011 and G.O.Ms.No. 242 dated 22.7.2013 and to pay the enhanced scales of pay till final decision is taken, it is vividly clear that the benefit was extended to all the 52 categories of incumbents covered in the said Government Orders on the date of judgment, irrespective of their date of appointment, whether before or after the judgment, and the mandamus issued not to implement the said Government Orders is bound to be obeyed and cannot be disregarded.

22. Therefore, for all the aforementioned reasons, the impugned order is quashed and the writ petitions are allowed. Needless to mention that if the respondents succeed before the Supreme Court, they are entitled to recover the amount from the salary of the existing employees or from the pension of the retired employees, as the case may be."



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25. As against the said common order dated 04.6.2018 in W.P. No.29097 of 2017 etc. cases, W.A.No.2109 of 2018 etc. cases came to be filed by both the State Government and the respective Departments. Along with the writ appeals, the respective parties filed miscellaneous petitions in CMP.Nos.16539 to 16621 of 2018 seeking to stay the operation of the said common order dated 04.6.2018 in W.P.No.29097 of 2017 etc. cases. A Division Bench of this Court disposed of those miscellaneous petitions by a common order dated 23.7.2019, the relevant portions of which are as follows :

"28. We direct the appellants to implement the pay scale in accordance with the order passed by the learned Single Judge with effect from the month of July 2019. The question of payment of arrears should await the decision of the Supreme Court in the related Special Leave Petitions. The above direction would also apply in the case of the pensioners and their pension should be re-fixed, taking into account the restoration of the pay scale. The concerned employees, including the pensioners, shall give an undertaking that in case the appeals are ultimately allowed by the Supreme Court, they would refund the excess salary/pension with interest.

29. The order passed by the learned Single Judge shall remain stayed till the disposal of the intra court appeals, subject to the condition that the pay scale shall be implemented prospectively with effect from 1 July



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2019 both in the case of present employees and the pensioners.

30. The miscellaneous petitions are disposed of with the above direction."

26. The special leave petitions that were filed against the common judgment dated 27.2.2014 passed by the Division Bench of this Court in W.A.No.504 of 2012 etc. cases were taken up for final hearing by the Apex Court. The civil appeals in Civil Appeal No.10029 of 2017 etc. cases arising out of those special leave petitions were disposed of by a common judgment dated 28.11.2019 in the following terms :

"11. Two sets of appeals have been filed in this Court challenging the decision of the Division Bench. The first set is by the Government Employees and their Associations submitting inter alia that once the process undertaken by the State Government was found to be in violation of the principles of natural justice, complete benefit of setting aside the impugned decisions ought to have been extended. It is also submitted that the exercise undertaken by the One Man Commission was a proper exercise and its recommendations were accepted by the State Government after considering the matter carefully and thus there was no occasion for the State Government to take any different view in the matter. On the other hand, the second set of appeals, at the



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instance of the State Government submits inter alia that the exercise undertaken by the PGRC was after giving due opportunity to the concerned employees and their Associations and as such the High Court was not justified in setting aside GO No.242 seeking to implement the recommendations given by the PGRC.

By interim order passed in these matters, stay of operation of the judgment under appeal, to the extent fresh PGRC was directed to be set up, was granted by this Court which status is still continuing.

12. We heard Mr.Dushyant Dave, Mr.R. Venkataramani, Mr.C.A.Sundaram, Mr.P.S.Patwalia, Mr. Vinay Navare, learned Senior Advocates and Mr. Prashant Bhushan, learned Advocate for the appellants in the first set of appeals and Mr.Vijay Narayan, learned Advocate General for the State. It was submitted by the learned counsel appearing for the Government Employees and their Associations that having accepted the recommendations made by the One Man Commission and having given benefits in terms of said recommendations, the State Government could not have lowered the pay scales of the concerned employees. On the other hand, it is the submission of the State that the acceptance of the recommendations of the One Man Commission resulted in greater anomalies; that the level of Assistant Engineers, which is the entry level in various Engineering services was wrongly clubbed with other entry level services like Assistant Surgeons; and that as a result of upward revision for Assistant Engineers the gap between the level of the Assistant Engineers and the subordinate ranks got widened to a



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considerable level while the Assistant Engineers and the promotional level for Assistant Engineer were brought almost at the same levels. According to the learned Advocate General, various such anomalies were required to be sorted out which in turn made the State Government to constitute the PGRC. According to the State Government, normally the pay scales afforded to equivalent ranks in the Central Government are higher than the ranks in the State Government but the entry level of Assistant Engineers in the State Government, as a result of the recommendations of the One Man Commission was kept at a level far too higher than their counterparts in the Central Government.

13. The Tabulated Chart which is part of GO No.242 indicates very clearly that the Assistant Engineers who were in the pre-revised pay scale of Rs.6500-11100 (column No.3), by virtue of acceptance of the recommendations made by the 6th Central Pay Commission were kept in the pay scale of Rs.9300-34800 with grade pay of Rs.4700/- (column No.4) as a result of GO No.234 dated 01.06.2009, while the next promotional level i.e. of the Assistant Executive Engineers was kept at Rs.15600-39100 with grade pay of Rs.5400/-. The recommendations of the One Man Commission resulted in upward revision to the extent of Rs.15600-39100 with grade pay of Rs.5400/- (column No.5) for the Assistant Engineers. The recommendations of the PGRC resulted in refixation for Assistant Engineers in the scale of Rs.9300-34800 with marginal increase of grade pay to Rs.5100/- (column No.7) as against what was available pursuant to GO



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No.234 dated 01.06.2009.

14. *The recommendations of the PGRC dealt with the effects of the acceptance of the recommendations by the One Man Commission. Para 3 of the recommendations quoted hereinabove shows that certain aspects of the matter were found to be anomalous. The submissions advanced by the learned Advocate General also show how the difference between the Assistant Engineers and the post immediately lower than that was getting widened, while at the same time, the post of Assistant Engineer and the next level of promotion i.e. the post of Assistant Executive Engineer were brought almost at the same level. These anomalies found by the State Government, had to be addressed. If the State Government, therefore, constituted the PGRC, such decision by itself cannot be found to be illegal or invalid.*

15. *It has always been accepted by this Court that prescription of pay scales and the assessment in that behalf is a complex matter which requires expertise. For instance, in Dy. Director General of Geological Survey of India and another v. R. Yadaiah and others [(2001) 10 SCC 563], it was observed:*

'Ordinarily, the courts or tribunal should not go into the question of fitment of the officers in a particular group or the pay scales thereof, and leave the matter to the discretion and expertise of the special commission like the Pay Commission.'

In State of Bihar and others v. Bihar Veterinary Association and others [(2008) 11 SCC 60], it was observed:-



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'13. If the courts start disturbing the recommendations of the pay scale in a particular class of service then it is likely to have cascading effect on all related services which may result into multifarious litigation. The Fitment Committee has undertaken the exercise and recommended the wholesale revision of the pay scale in the State of Bihar and if one class of service is to be picked up and granted higher pay scale as is available in the Central Government then the whole balance will be disturbed and other services are likely to be affected and it will result in complex situation in the State and may lead to ruination of the finances of the State."

In Hukumchand Gupta v. ICAR [(2012) 12 SCC 666], it was stated :-

"20. ... Prescription of pay scales on particular posts is a very complex exercise. It requires assessment of the nature and quality of the duties performed and the responsibilities shouldered by the incumbents on different posts. Even though, the two posts may be referred to by the same name, it would not lead to the necessary inference that the posts are identical in every manner. These are matters to be assessed by expert bodies like the employer or the Pay Commission."

16. It may be stated here that the 6th Central Pay Commission comprising of experts in the field had recommended certain pay-scales for various posts. The Official Committee which comprised of Principal Secretary to the State of Tamil Nadu, Home Department, as Chairperson with (i) Principal Secretary, Finance Department; (ii) Principal Secretary, Personnel



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and Administrative Reforms Department; and (iii) Principal Secretary, School Education Department as Members, had examined the matter and made certain recommendations which were accepted by the Government by GO No.234 dated 01.06.2009. The One Man Commission appointed to consider the anomalies, however, recommended something which was far in excess of what was accepted by GO No.234 dated 01.06.2009 which in turn was in tune with the recommendations of the 6th Central Pay Commission. It is true that the Government had accepted the recommendations of the One Man Commission but if further anomalies were found which called for action on part of the Government, any exercise to reconsider the matter by the State Government could not be faulted nor could the constitution of the PGRC be said to be invalid or illegal.

17. Further, if there was any infirmity in the exercise of power by the PGRC in not granting adequate notice and hearing to the concerned, such infirmity could certainly be sorted out. That is exactly what the Division Bench undertook while passing the directions quoted hereinabove. We, therefore, see no error in the approach of and the directions issued by the Division Bench of the High Court.

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



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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 the 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) Direction Nos.(iii) and (v) to (vii) issued by the Division Bench are accepted and do not call for any change.

(D) Instead of Rs.1.5 lakhs per month, we fix the honorarium of the Chairman of the PGRC at Rs.3.5 lakhs per month but 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 issue 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



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facilities.

c) *Within two weeks of the constitution of the PGRC all the concerned individuals/associations shall file their representations. No representation filed 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 directions 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.*

20. *It must be stated that the recommendations of the 7th Central Pay Commission have since been made and the issue regarding implementation of such recommendations is presently under active consideration. The present matters which pertain to the recommendations of the 6th Central Pay Commission therefore need to be resolved at the earliest. In the circumstances, we request the PGRC to conclude the entire exercise within four months from today.*

By way of clarification, it is added that the



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affected categories shall not be permitted to migrate to 7th Central Pay Commission scales on the basis of the higher scales till such time as the final decision is taken.

21. Lastly, it is clarified that the observations in the present order have been made purely from the stand point of consideration whether the decision of the State Government in constituting the PGRC was correct or not and not by way of reflection on merits of the matter. The matter shall be considered by the PGRC and the State Government purely on merits and uninfluenced by any of the observations made by us."

27. Pursuant to the above said common judgment of the Apex Court, an Official Committee was constituted vide G.O.Ms.No.381 dated 04.12.2019 under the Chairmanship of Hon'ble Mr.Justice D.Murugesan, Former Chief Justice of the Delhi High Court along with two other members to address the anomalies and give their recommendations. As per the directions of the Apex Court, the Hon'ble Mr.Justice D.Murugesan co-opted (i) Dr.H.Devaraj, Former Vice Chairman, University Grants Commission, New Delhi; and (ii) Thiru M.Nagoor Meeran, Former Member, Tamil Nadu Public Service Commission as Members of the Committee. For better appreciation, this Committee shall be identified as the PGRC-2019. The terms of reference of this Committee are as follows :



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"a. The Pay Grievance Redressal Committee shall examine all the representations received from associations/individual employees relating to anomalies in respect of pay structure ordered based on the recommendations of One Man Commission 2010, G.O.Ms.No.71, Finance (Pay Cell) Department, dated 26.2.2011 and G.O.Ms.No.242, Finance (Pay Cell) Department, dated 22.7.2013.

b. To re-examine the orders issued in G.O.Ms.No. 71, Finance (Pay Cell) Department, dated 26.2.2011, the report and recommendation of the earlier Pay Grievance Redressal Cell and G.O.Ms.No.242, Finance (Pay Cell) Department, dated 22.7.2013.

c. The Pay Grievance Redressal Committee shall make specific recommendations to Government on the representations/anomalies considered.

d. The Pay Grievance Redressal Committee shall submit its report to Government within a period of four months."

28. The PGRC-2019 heard the grievance of the employees' associations/individual employees from 21.1.2020 to 20.3.2020 and submitted a comprehensive report. The PGRC-2019 recommended for revision of pay scales for 52 categories in 20 departments. Accordingly, the recommendations made by the PGRC-2019 were accepted by the Government and towards implementation of the same,



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Government Orders were issued with reference to revision of scales of pay in 52 categories in 20 departments.

29. To get a bird's-eye view on the pay revision under the relevant Government Orders issued accepting the recommendations of the PGRC-2019 and which have been put to challenge in these writ petitions, the same is extracted as hereunder :

ENGINEERING DEPARTMENT

G.O. Ms. No. 399 Finance (Pay-Cell) Department dated 12-11-2020

Public Works Department. (OMC G.O. No. 312 dated 26-08-2010)

Posts covered	Pre-revised Scale of Pay	scale of pay +GP as per Official Committee	Scale of pay accepting OMC recommendations	G.O.Ms.No. 71	PGRC-2019
Assistant Engineer	6500-11100	Rs. 9300-34800+ GP 4700	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5100	Rs. 9300-34800+ GP 5100
Assistant Executive Engineer	8000-13500	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5400
Executive Engineer	10000-15200	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 7600	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 6600

	W.P	Year	BY	COMPRISING OF
1.	17624 (MD)	2020	Thiru C.K. Dev Anand & 5 others	Assistant Engineers
2.	17625 (MD)	2020	Thiru A. Ariharan & 9 others	Assistant Engineers
3.	17947	2020	Thiru A. Abdul Hudoos & 9 others	Assistant Engineers



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4.	20401	2020	Association of Engineers & Assistant Engineers Association Rep by its General Secretary Thiru K. Murugan	Assistant Engineers
5.	4933	2021	Thiru R. Elanga Raja and 46 others	Assistant Engineers

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G.O. Ms. No. 404 Finance (Pay-cell) Department dated 12-11-2020. (OMC G.O. No. 283 dated 26-08-2010)

Highways Department

Posts covered	Pre-revised Scale of Pay	scale of pay +GP as per Official Committee	Scale of pay accepting OMC recommendations	G.O. Ms. No. 71	PGRC-2019
Assistant Engineer/ Electronics Engineer (S.Nos.3 & 4 in G.O.No.283) & S.No.1 in G.O.No. 71	6500-11100	Rs. 9300-34800+ GP 4700	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5100	Rs. 9300-34800+ GP 5100
Assistant Divisional Engineer	8000-13500	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5400
Divisional Engineer	10000-15200	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 7600	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 6600

	W.P	Year	BY	COMPRISING OF
6.	20397	2020	Association of Tamil Nadu Highways Engineers Rep by its General Secretary	Members are Assistant Engineers/Assistant Divisional Engineers/Divisional Engineers
7.	18533 (MD)	2020	Thiru S. Kannan & 9 others	Assistant Divisional Engineer
8.	18566 (MD)	2020	Tmt K. Geetha	Assistant Engineer
9.	18568 (MD)	2020	Tmt V. Mahalakshmi	Assistant Engineer
Direct recruits (in service)				
10.	18552 (MD)	2020	Thiru A.V. Ashok Pandian	Assistant Engineer (Direct recruit-2012)
11.	18555 (MD)	2020	Thiru M. Balaji	Assistant Engineer (Direct recruit-2012)
12.	18561 (MD)	2020	Thiru R.P. Manikandan	Assistant Engineer(Direct recruit-2012)
13.	18564 (MD)	2020	Thiru R.N. Jeyanthi	Assistant Engineer (Direct recruit-2012)
14.	18558 (MD)	2020	Tmt. P. Gayathri	Assistant Engineer(Direct recruit-2016)



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15.	25693	2022	Thiru Kathya & 5 others	Assistant Engineers (Direct Recruit)
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G.O. Ms. No. 407 Finance (Pay-cell) Department dated 12-11-2020. OMC G.O. No. 288 dated 26-08-2010)

Industries & Commerce Department

Posts	Pre-revised Scale of Pay	scale of pay +GP as per Official Committee	Scale of pay accepting OMC recommendations	G.O.Ms.No. 71	PGRC-2019
Assistant Engineer (Industries)/ (Tester)/Testing Assistant/Technical Assistant/Inspector (Quality Control) (S.Nos. 2 & 3 in G.O. No. 288)	6500-11100	Rs. 9300-34800+ GP 4700	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5100	Rs. 9300-34800+ GP 5100

	W.P	Year	BY	COMPRISING OF
16.	3700	2021	Tmt M. Vidya & 20 others	Deputy Director
17.	18107 (MD)	2020	Thiru K. Marimuthu & 4 others	Deputy Director (Technical)

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G.O. Ms. No. 416 Finance (Pay-cell) Department dated 12-11-2020. OMC G.O. No. 335 dated 26-08-2010)

Chennai Corporation

Posts	Pre-revised Scale of Pay	scale of pay +GP as per Official Committee	Scale of pay accepting OMC recommendations	G.O.Ms.No.71	PGRC-2019
Assistant Engineer	6500-11100	Rs. 9300-34800+ GP 4700	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5100	Rs. 9300-34800 + GP 5100
Assistant Executive Engineer	8000-13500	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5400
Executive Engineer	10000-15200	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 7600	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 6600

	W.P	Year	BY	COMPRISING OF
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In service				
18.	1516	2021	Thiru R. Mathiazagan	Assistant Engineer (S)
19.	18829	2020	Thiru Karthikeyan and 20 others	Assistant Engineers
20.	19049	2020	Thiru Mohamed Habeeb and 19 others	Assistant Engineers
21.	19053	2020	Thiru V. Prabhu and 17 others.	Assistant Engineers
22.	19114	2020	Ms.K.Jayanthy and 19 others	Assistant Engineers
23.	19137	2020	Thiru Bala Muthuraman and others	Assistant Engineers
24.	19180	2020	Thiru Dhanasekar and 19 others	Assistant Engineers
25.	19190	2020	Thiru Kumar. M.	Assistant Engineer
Direct Recruit (AE)				
26.	299	2021	Thiru T.S.Saravanan & 6 others	Assistant Engineers (DR-2013)

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G.O. Ms. No. 410 Finance (Pay-cell) Department dated 12-11-2020. OMC G.O. No. 305 dated 26-08-2010)

Motor Vehicles Maintenance Department

Posts	Pre-revised Scale of Pay	Scale of pay +GP as per Official Committee	Scale of pay accepting OMC recommendations	G.O.Ms.No.71	PGRC-2019
Technical Assistant/ General Foreman	6500-11100	Rs. 9300-34800+ GP 4700	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5100	Rs. 9300-34800+ GP 5100
Automobile Engineer	8000-13500	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5400

	W.P	Year	BY	COMPRISING OF
27	19465 (MD)	2020	Tmt M. Esther Vathana	Automobile Engineer
28	34571	2022	1. Ms. P.T.Sowba 2. Ms. G.Vigneswari 3. Thiru K. Dharmalingam 4. Ms. V. Kumathavalli 5. Ms. R. Devapriya 6. Thiru V.Sakthivel Petitioners 1-3 and 5-7	Technical Assistants(now promoted as Automobile Engineer)
			Thiru R.Ravi Petitioner No. 4.	General Foreman

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G.O. Ms. No.408 Finance (Pay-cell) Department dated 12-11-2020. OMC G.O. No. 290 dated 26-08-2010)

Department of Industrial Safety & Health

Posts	Pre-revised Scale of Pay	scale of pay +GP as per Official Committee	Scale of pay accepting OMC recommendations	G.O.Ms.No.71	PGRC-2019
Assistant Inspector of Factories	6500-11100	Rs. 9300-34800+ GP 4700	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5100	Rs. 9300-34800+ GP 5100
Inspector of Factories	8000-13500	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5400
Deputy Chief Inspector of Factories	10000-15200	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 7600	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 6600

	W.P.	Year	BY	COMPRISING OF
29	2403	2021	Thiru E. Sasi Kumar & 21 others.	Deputy Directors
30	18758 (MD)	2020	Tmt A. Chithra & 2 others	Deputy Directors
31	2571	2021	Thiru M.V. Karthikeyan & 18 others	Joint Directors

(ON PAR POST)

G.O. Ms. No. 413 Finance (Pay-cell) Department dated 12-11-2020. OMC G.O. No. 315 dated 26-08-2010)

Commissionerate for the Welfare of Differently Abled

Posts	Pre-revised Scale of Pay	scale of pay +GP as per Official Committee	Scale of pay accepting OMC recommendations	G.O.Ms.No.71	PGRC-2019
District Disabled Rehabilitation Officer/ now District Differently Abled Rehabilitation Officer	6500-10500	Rs. 9300-34800+ GP 4600	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5100	Rs. 9300-34800+ GP 5100

	W.P	Year	BY	COMPRISING OF
32	18571 (MD)	2020	District Differently abled Rehabilitation Officer	---

(EQUIVALENT POST)

G.O. Ms. No. 412 Finance (Pay-cell) Department dated 12-11-2020. OMC G.O. No. 324 dated 26-08-2010)

State Transport Authority



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Posts	Pre-revised Scale of Pay	scale of pay +GP as per Official Committee	Scale of pay accepting OMC recommendations	G.O.Ms.No.71	PGRC-2019
Personal Assistant to Regional Transport Officer/ Motor Vehicle Inspector Grade-I (S.Nos. 3 & 4 in G.O.No.324)	6500-10500	Rs. 9300-34800+ GP 4600	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5100	Rs. 9300-34800 + GP 5100
Regional Transport Officer	8000-13500	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5400

	W.P	Year	BY	COMPRISING OF
33	2972	2022	Tmt R. Malathi	RTO & P.A to RTO / Motor Vehicle Inspector Grade – I
34	2975	2022	Tmt M. Umamaheswari	RTO & P.A to RTO / Motor Vehicle Inspector Grade – I
35	2979	2022	Thiru N.R. Saravanan	RTO & P.A to RTO / Motor Vehicle Inspector Grade – I
36	2982	2022	Tmt Fathima Barvin	RTO & P.A to RTO / Motor Vehicle Inspector Grade – I
37	2985	2022	Tmt P. Sathya	RTO & P.A to RTO / Motor Vehicle Inspector Grade – I
38	6346	2021	Tmt.A.S. Suganthi	Motor Vehicle Inspector Grade – I
39	6784	2021	Thiru R. Pattabi & 14 others [1 to 5 RTO & 6 to 15 PA to RTO]	RTO & P.A to RTO / Motor Vehicle Inspector Grade – I
40	7301	2022	Thiru R. Muruganandam	RTO / Motor Vehicle Inspector Grade – I
41	10632	2021	Thiru K. Baskar	RTO & P.A to RTO / Motor Vehicle Inspector Grade – I
42	19606 (MD)	2020	Thiru N. Singaravelu	RTO



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43	20505	2021	Thiru Sakthivel	RTO & P.A to RTO / Motor Vehicle Inspector Grade – I
44	20509	2021	Thiru Manivannan	RTO & P.A to RTO / Motor Vehicle Inspector Grade – I
45	20513	2021	Thiru P. Sadasivam	RTO & P.A to RTO / Motor Vehicle Inspector Grade – I
46	7310	2022	Thiru R.Thiagarajan	RTO / Motor Vehicle Inspector Grade – I

(EQUIVALENT POST)

G.O. Ms. No. 415 Finance (Pay-cell) Department dated 12-11-2020. OMC G.O. No. 452 dated 26-08-2010)

Electrical Inspectorate

Posts	Pre-revised Scale of Pay	scale of pay +GP as per Official Committee	Scale of pay accepting OMC recommendations	Scale of pay as per G.O. Ms. No. 452	G.O. Ms. No. 71	PGRC-2019
Junior Electrical Inspector	6500-11100	Rs. 9300-34800+ GP 4700	----	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5100	Rs. 9300-34800+ GP 5100
Assistant Electrical Inspector	8000-13500	Rs. 15600-39100 + GP 5400	----	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5400
Electrical Inspector	10000-15200	Rs. 15600-39100 + GP 6600	----	Rs. 15600-39100 + GP 7600	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 6600

	W.P	Year	BY	COMPRISING OF
47	729	2021	Tamil Nadu Electrical Inspectorate Engineer's Association	Junior Electrical Inspector/Electrical Inspectors/Assistant Electrical Inspectors/Electrical Inspector/Senior Electrical Inspector/Chief Electrical Inspector

(SIMILAR SCALE OF PAY)

G.O. Ms. No. 406 Finance (Pay-cell) Department dated 12-11-2020. (OMC G.O. No. 451 dated 31-12-2010)

Rural Development Department

Posts covered	Pre-revised Scale of Pay	scale of pay +GP as per Official Committee	Scale of pay accepting OMC recommendations	Scale of pay as per G.O. Ms. No. 451	G.O. Ms. No. 71	PGRC-2019
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Assistant Engineer	6500-11100	Rs. 9300-34800+ GP 4700	-----	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5100	Rs. 9300-34800+ GP 5100
Assistant Executive Engineer	8000-13500	Rs. 15600-39100 + GP 5400	-----	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5400
Executive Engineer	10000-15200	Rs. 15600-39100 + GP 6600	-----	Rs. 15600-39100 + GP 7600	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 6600

	W.P	Year	BY	COMPRISING OF
48	1470	2021	Tamil Nadu Rural Development Engineers & Assistant Engineers Association. & Rural Development Assistant Engineers Welfare Association	Assistant Engineers/Assistant Executive Engineers/Executive Engineers
49	17649 (MD)	2020	Thiru K. Chandrasekaran	Assistant Engineer
50	18535 (MD)	2020	Thiru E. Sathish Kumar & 29 others	Assistant Engineers/Assistant Executive Engineers/Executive Engineers

G.O. Ms. No. 401 Finance (Pay-cell) Department dated 12-11-2020. (OMC G.O. Nos 257 (only S.No. 1 Agricultural Officer) & 287 (only S.No. 1 Horticulture Officer) dated 26-08-2010 & 448 dated 31-12-2010)

Agriculture Department

Posts	Pre Scale of Pay	scale of pay +GP as per Official Committee	Scale of pay accepting OMC recommendations		G.O. Ms. No. 71	PGRC-2019
				Scale of pay as per G.O. Ms. No. 448		
Agriculture Officer/ Horticulture Officer	6500-11100	Rs. 9300-34800+ GP 4700	Rs. 9300-34800+ GP 4900	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5100	Rs. 9300-34800+ GP 5100
Assistant Director of Agriculture/ Assistant Director of Horticulture	8000-13500	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5400



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Deputy Director of Agriculture/ Deputy Director of Horticulture	10000-15200	Rs. 39100 + GP 6600	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 7600	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 6600
Joint Director of Agriculture/Joint Director of Horticulture	12000-16500	Rs. 39100 + GP 7600	Rs. 15600-39100 + GP 7600	Rs. 15600-39100 + GP 7600	Rs. 37400-67000 + GP 8700	Rs. 15600-39100 + GP 7600	Rs. 15600-39100 + GP 7600

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1	17163 (MD)	2020	Thiru H. Idayathullah	Seed Certification Officer in the cadre of Agricultural Officer
2	17170 (MD)	2020	Thiru K. Veerraiah	Agricultural Officer (Service)
3	17175 (MD)	2020	Thiru S. Seeralan	Seed Certification Officer in the cadre of Agricultural Officer
4	17177 (MD)	2020	Tmt P. Devaki	Agricultural Officer (Service)
5	17173 (MD)	2020	Thiru A. Ramaraj	Assistant Director of Agriculture
6	1205	2021	Thiru R. Thilagam	Assistant Director
7	20398	2020	Tamil Nadu Government Agricultural Graduates Association Rep by its Secretary Thiru Syed Ali.G	Graduates.

DIRECT RECRUITS

8	17164 (MD)	2020	Thiru K. Raju	Agricultural Officer (Direct Recruit)
9	17165 (MD)	2020	Thiru N. Kumaravel	Agricultural Officer(Direct Recruit)
10	17167 (MD)	2020	Thiru M. Mohideen Pitchai	Agricultural Officer (Direct Recruit)
11	17171 (MD)	2020	Thiru Ramakrishnan	Agricultural Officer (Direct Recruit)
12	17172 (MD)	2020	Thiru K.M. Krishnakumar	Agricultural Officer (Direct Recruit)
13	17176 (MD)	2020	Thiru A. Bala Murugan	Agricultural Officer (Direct Recruit)
14	17181 (MD)	2020	Thiru U. Ulagu Sundaram	Agricultural Officer (Direct Recruit)
15	2932	2021	Thiru P.R. Saravanan	Agricultural Officer (Direct Recruits)
16	3182	2021	Thiru R. Ananthan & 47 others	Agricultural Officer (Extension) Direct Recruits
17	18261	2020	Thiru Sathish kumar & 9 others	Agricultural Officer (Extension) Direct Recruit)
18	20007	2020	Thiru R. Gokulavasan	Agricultural Officer (Extension) Direct Recruit



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PENSIONERS/FAMILY PENSIONERS

	W.P.No	Year	Petitioner Name	Name of the Post
19	54 (MD)	2021	Thiru Rajesekaran & 187 others	Joint Directors of Agriculture/Horticulture (Retired)
20	4014 (MD)	2021	Thiru T.S. Venkataramanan & 13 others	Joint Directors Agriculture/Horticulture (Retired)
21	17179 (MD)	2020	Thiru S. Arumugam	Joint Director of Agriculture (Retired)
22	56 (MD)	2021	Thiru V. Subramanian & 46 others	Assistant Directors of Agriculture/ADs of Horticulture (Retired)
23	17178 (MD)	2020	Thiru C. Kannan	Assistant Director of Horticulture (Retired)
24	2705	2021	Thiru K. Weseley Jeevanraj & 2 others	Assistant Directors of Agriculture/Horticulture (Retired)
25	60 (MD)	2021	Thiru Tiruvalluvan & 75 others	Deputy Directors of Agriculture/Deputy Directors of Horticulture (Retired)
26	2699	2021	Thiru J. Raja	Deputy Director (Retired)
27	17174 (MD)	2020	Thiru R. Ganesamoorthy	Deputy Director of Agriculture (Retired)
28	63 (MD)	2021	Thiru Haridoss & others	Agricultural Officer /HO (Retired)
29	17168 (MD)	2020	Thiru G. Gunasekaran	Agricultural Officer (Retired)
30	64 (MD)	2021	Tmt M.A. Vasantha & 18 others	Joint Director of Agriculture/Horticulture (Family Pensioners)
31	4029 (MD)	2021	Tmt M. Gandhimathi & one other	Joint Directors (Family Pensioners)
32	67 (MD)	2021	Tmt S. Bavani & 3 others	Deputy Directors of Agriculture/Deputy Directors of Horticulture (Family Pensioners)
33	1197	2021	Ms. A. Amsarani	Agricultural Officer (Family Pensioner)

ON PAR POSTS

G.O. Ms. No. 403 Finance (Pay-cell) Department dated 12-11-2020. (OMC G.O. No. 277 dated 26-08-2010 & 450 dated 31-12-2010)

Fisheries Department

Posts	Pre-revised Scale of Pay	scale of pay +GP as per Official Committee	Scale of pay accepting OMC recommendations	Scale of pay as per G.O. Ms. No. 450	G.O. Ms. No. 71	PGRC-2019
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Inspector of Fisheries/ Research Assistant	6500-11100	Rs. 9300-34800+ GP 4700	Rs. 9300-34800+ GP 4900	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5100	Rs. 9300-34800+ GP 5100
Assistant Director	8000-13500	Rs. 15600-39100 + GP 5400	-----	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 5400	Rs. 15600-39100 + GP 5400
Deputy Director	10000-15200	Rs. 15600-39100 + GP 6600	-----	Rs. 15600-39100 + GP 7600	Rs. 15600-39100 + GP 6600	Rs. 15600-39100 + GP 6600
Joint Director	12000-16500	Rs. 15600-39100 + GP 7600	-----	Rs. 37400-67000 + GP 8700	Rs. 15600-39100 + GP 7600	Rs. 15600-39100 + GP 7600

34	1508	2021	The Tamil Nadu Fisheries Department Officers Association Rep by its Secretary Thiru E. Kathavarayan	Assistant Director/Deputy Director and Joint Director of Fisheries Inspector of Fisheries also
35	3653	2021	The Tamil Nadu State Fisheries Executive Subordinate Association Rep by its President Thiru D. Pargunan	Inspector of Fisheries
36	18109 (MD)	2020	Thiru K. Palani & 2 others	Inspector of Fisheries

30. The fourth round of litigation started by virtue of challenging the relevant Government Orders issued by accepting the recommendations made by the PGRC-2019.

31. During the pendency of these writ petitions, an interim order was granted on 22.12.2020 in some of the writ petitions staying the operation of the relevant Government Orders. Thereafter, the State filed miscellaneous petitions to vacate the interim order granted by



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this Court and the miscellaneous petitions in W.M.P.Nos.2074, 2076 and 2077 of 2021 in W.P.Nos.20397, 20398 and 20401 of 2020 and W.M.P.No.6978 of 2021 in W.P.(MD) No.18535 of 2020 were disposed of by a learned Single Judge of this Court by a common order dated 19.4.2021, the relevant portions of which are extracted as hereunder:

"10. Admittedly, the employees are getting more pay than their eligibility and there has been a wrong fixation of pay, as stated by the Respondents. The Government has also agreed to waive the recovery of arrears for their fault and it does mean that wrong fixation, if any can continue forever. The Government has also slept over the matter and did not take any steps to effect recovery at the earliest point of time. Hence, this Court, in the interest of justice and for the purpose of balance convenience, is inclined to modify the interim order as follows:

i) The Government/Respondents in the Writ Petitions shall pay only 50% of the difference in amount that has been wrongly fixed (according to them), from the month of April, 2021 and in case the Writ Petitioners succeed in the batch of Writ Petitions, the Government shall repay the 50% of the difference in amount withheld along with interest @ 6% p.a.;

ii) Similarly, in the event of Government getting a favourable order from this Court in the batch of Writ Petitions, the Government is entitled to recover the entire amount (excluding the period waived off by the Government), from the Writ Petitioners, by calculating



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interest @ 6% p.a.;

iii) *The amount paid to the employees/Writ Petitioners upto the month of March, 2021, pursuant to the interim orders, shall not be recovered from them, till the disposal of the Writ Petitions, from the date of interim order;*

iv) *The members of the Petitioner Association shall file an individual affidavit of undertaking within 10 days from today, that in case they cease to be employees under any circumstances/nomenclature, such as retirement, termination, etc., before disposal of this batch of Writ Petitions, the amount so paid & recoverable (as mentioned in Paragraph No.10 (i & ii) supra) pursuant to this interim order can be adjusted from their gratuity amount. However, Government shall not deduct the interest portion from the gratuity amount and the amount to be refunded to the employees in case they succeed finally. It is made clear that the employees are not entitled to claim any interest for the returned amount, as the gratuity amount is going to be adjusted only against the actual amount payable, without interest by the Government.*

11. *This Court initially thought of directing the Government to continue, paying the amount, provided the Writ Petitioners/employees furnish unencumbered properties as collateral security. Since it is not known as to how many persons will be having the property in their name and will hand over the same to the Government, the interim order has been modified as mentioned in Paragraph No.10.*

12. *It is made clear that the observations made*



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hereinabove are only for the purpose of disposal of these Vacate Stay Petitions and it will have no bearing on the main Writ Petitions. It is open to the parties to raise all the points available to them, when the matter is finally taken up for disposal."

32. The said order dated 19.4.2021 made in W.M.P.No.2074 of 2021 in WP.No.20397 of 2020 etc. cases was put to challenge in W.A.Nos.1271, 1273 and 1275 of 2021, in which, a Division Bench of this Court passed the following order dated 27.4.2021 :

"11. The petitioner association and other writ petitioners continue to have pay protection only by virtue of the interim orders granted by this Court and similar orders also came to be passed by applying principle of parity.

12. It is also well settled that the legal position with regard to the pay fixation based upon the opinion given by the expert body and the scope of interference in exercise of the judicial review under Article 226 of Constitution of India, is very limited.

13. It is also to be noted that at this juncture, any interim protection, is always subject to the result of the writ petitions, subject to the appellant in W.A.Nos. 1271, 1273 and 1275 of 2020 filing affidavit of undertaking that in the event of they being unsuccessful in the pending writ petitions, they will pay back the salary and emoluments received pursuant to the interim orders passed in the writ petitions.



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14. There shall be stay of operation of the impugned interim Order dated 19.04.2021 in WMP.No. 2074/2021 against WMP.No.25168/2020 in WP.No. 20397/2020 till 03.06.2021 and the affidavit of undertaking shall be filed on or before 01.06.2021."

33. Counter affidavits were filed in all the writ petitions and the State Government justified the recommendations made by the PGRC-2019 and the Government Orders issued to implement the recommendations. The stand taken by the State Government is that the OMC exceeded its brief and had wrongly upgraded the scale of pay of the Assistant Engineers, which had a cascading effect, that the Government has taken efforts to set right the mistake and restored justice to all the categories, that the Government took note of the serious effect of upgradation of the scale of pay, which affected both the vertical and the horizontal equality amongst various officers.

34. It is the further stand of the State Government that earlier, the decision arrived at by the Government while issuing G.O.Ms.No.71, dated 26.2.2011 was faulted only on the ground that sufficient opportunity was not given to the employees' associations/individual employees, that accordingly, the PGRC-2019 was constituted, which



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was headed by the Hon'ble Mr. Justice D. Murugesan, Former Chief Justice of the Delhi High Court and that the PGRC-2019 had elaborately gone into the grievances made in the representations and had arrived at a decision, which is consistent with the vertical and the horizontal equalities and restored the difference with regard to the feeder post and the promotion post.

35. That apart, the State Government had also taken a stand that there is a limited jurisdiction of judicial review in respect of pay fixation in Government service and that absolutely no case is made out by the petitioners to interfere with the decision taken by an expert body after affording sufficient opportunity to all concerned. In the counter affidavits, the State Government has also met the various grounds taken by the petitioners with respect to (i) violation of the principles of natural justice, (ii) violation of equality/equation of posts/ equal pay for equal work, (iii) deficiencies that had crept in the recommendations of the PGRC-2019 and (iv) other miscellaneous grounds taken by the petitioners. Accordingly, the State Government and the respective Departments sought for dismissal of these writ petitions for the effective implementation of the impugned Government



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Orders.

Submissions made on the side of the petitioners :

36. (i) Submissions of Mr.N.Subramaniyan, learned counsel:

- The impugned orders have been founded purely on the report of the PGRC-2019/report, which has been submitted without considering the relevant factors, contrary to the terms of reference and the judgment of the Supreme Court dated 28.11.2018.
- The constitution of the PGRC-2019 is not in consonance with the directions of the Apex Court since the two additional members co-opted by the Chairman are not experts in civil/mechanical engineering and hence, they cannot appreciate the nature of work carried out by the Assistant Engineers in the concerned Department.
- The PGRC-2019 failed to state or consider or even refer to the detailed representation made by the Engineers' Association.
- The PGRC-2019 failed to apply their own mind and on the contrary, it merely adopted G.O.Ms.No.242, dated 22.7.2013, which is contrary to the terms of reference where the PGRC-



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2019 was expected to examine the correctness of G.O.Ms.No. 242, dated 22.7.2013.

- The PGRC-2019 failed to see that the category of Assistant Engineers in the CPWD is at a sub-divisional level whereas the category of Assistant Engineers is at the entry level post in the State Engineering Services and both cannot be compared and brought on par with each other.
- The PGRC-2019 failed to see that the pay scales that were fixed for the Engineers were lowered only due to the claim made by the revenue staff by comparing themselves with the Engineers.
- The OMC identified the anomalies in granting pay scales of Engineers on the ground that it will affect the horizontal pay parity by not providing pay scale on par with the entry level of all other State Services and granting pay scale of Assistant Engineers/Assistant Executive Engineers was lesser than their feeder category and for the Executive Engineers on par with the subordinates working under them.
- The report of the PGRC-2019 is in violation of the principles of natural justice since the representations of the petitioners and



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the members of the other Engineers' Association were not even considered and it completely ignored the ground taken by the Engineers to the effect that the pay scale of the Assistant Engineer must be on par with the Assistant Executive Engineer in the CPWD and the pay scale of the Assistant Executive Engineer should be on par with the Executive Engineer of the CPWD.

- The PGRC-2019 failed to consider the report of the OMC, which specifically found that all the professionally qualified personnel were provided with the pay scale of Rs.8000-11100 (pre-revised scale) except the Assistant Engineers and therefore, recommended that pay scale to the Assistant Engineers in order to have horizontal pay parity. This anomaly that was set right by the OMC was not appreciated properly by the PGRC-2019.
- The PGRC-2019 went wrong in comparing the Assistant Engineers with Assistant Surgeons, whose job factors/responsibilities/accountability were all different and incomparable.
- The PGRC-2019 did not properly examine the correctness of



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G.O.Ms.No.71, dated 26.2.2011 and G.O.Ms.No.242, dated 22.7.2013 and it merely confirmed these Government Orders by taking into account the pre-existing pay scale, which was found by the OMC to be an anomaly. When all the entry level posts in the State Services are provided with the same pay scale of Rs.15600-39100 + 5400, denying the same for Engineers alone is again horizontal pay parity and hence, it is discriminatory.

- The argument raised by the respondents that placing the pay scales of Assistant Engineers, Assistant Executive Engineers and Executive Engineers in the same pay band namely Pay Band-3 would create anomalies is without any basis as long as the total of the basic pay + grade pay is different for the three posts coming under the same pay band. Such revised pay scale was, in fact, approved by the PGRC-2019 in the Animal Husbandry Department and also the Tamil Nadu Secretariat where two or three posts namely the feeder category post and the promotional posts are placed in the same pay band.
- The category of Assistant Engineers is the lowest or the entry



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level post in the Tamil Nadu Engineering Service like Assistant Veterinary Surgeons, District Registrars, Assistant Directors of Forensic Sciences, etc., of other State Services, who are all granted with the same pay scale of Rs.15600-39100 + Grade Pay Rs.5400. There is no immediate lower post to the category of Assistant Engineer in the same service. The next lower categories to Assistant Engineer are Senior Draughting Officers and Junior Engineers in the Subordinate Service in all the Engineering Departments and both the categories of Junior Engineer and Senior Draughting Officer are feeder categories to Assistant Engineers. There is a vast difference between the State Service and the Subordinate Services and in all the other departments, the Subordinate Service is granted with pay scales in Pay Band-2 and these are the feeder categories to the entry level or the lowest post in the State Services, which are granted with lowest pay scale in Pay Band-3. This was taken note of by the OMC and the anomaly was set right, which was not properly appreciated by the PGRC-2019.

- This Court, in exercise of its jurisdiction under Article 226 of



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The Constitution of India, can always examine the correctness of the decision taken by the PGRC-2019 and it is not as if the judicial review is completely impermissible. This is more so in cases where there is gross arbitrariness and discrimination shown vitiating the decision taken by the PGRC-2019, which culminated into the impugned Government Orders.

(ii) Submissions of Mr.V.Prakash, learned Senior Counsel :

- The PGRC-2019 proceeded on the erroneous presumption that Assistant Engineers in the State Service are also diploma holders as in the case of the CPWD where it is only at the level of Assistant Executive Engineer, engineering degree is insisted as a minimum qualification.
- There is no scientific study as to the nature of work and qualification as mandated by the Supreme Court with respect to pay fixation.
- There is a flawed comparison between the posts of Assistant Engineer in the PWD and Assistant Engineer in the CPWD, which do not carry the same educational qualification. The posts of Junior Engineer and Assistant Engineer cannot be compared since Junior Engineers are diploma holders whereas



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Assistant Engineers are holding professional engineering degree.

- The post of Assistant Engineer in the PWD and other similar posts in other departments are also professionals and they are all recruited in the State Service. That apart, there is a very limited promotional opportunity for Assistant Engineers unlike the promotional opportunities available to others. The PGRC-2019 did not independently apply its mind nor studied the job factors, qualification and stagnation in the Government posts and had mechanically followed the decision taken in G.O.Ms.No.242, dated 22.7.2013.
- The learned Senior Counsel, in order to substantiate the scope of judicial review in matters of pay fixation, relied upon the judgment of the Supreme Court in the case of ***Union of India Vs. D.G.O.F. Employees Association [reported in 2023 SCC OnLine SC 1471]***.

(iii) Submissions of Mr.V.Karthic, learned Senior Counsel :

- 454 officers were appointed under Notification dated 13.8.2012 by fixing a pay band and in the appointment order, it has not been stated anywhere that it will be subject to the



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outcome of the pending litigation. Believing the same, some of the petitioners had joined as Agricultural Officers by leaving their existing jobs and after seven years, their pay band had been reduced and such a reduction is barred under the principle of promissory estoppel.

- B.Sc. Agriculture is recognized as a professional course under the Notification of the University Grants Commission and till 2006, the comparison was only with veterinary doctors and for the first time, the comparison was made with Assistant Engineers.

(iv) Submissions of Mr.N.L.Rajah, learned Senior Counsel :

- This Court and the Supreme Court had directed the PGRC-2019 to go into the issues involved afresh and make the recommendations whereas none of the representations was considered. Rather, the PGRC-2019 mechanically repeated the contents of the earlier Government Orders, which were put to challenge before this Court.
- The PGRC-2019 failed to take note of the fact that Assistant Engineers in the PWD are on par with Automobile Engineers in the State Service and they cannot be drawing a lesser pay



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than the Automobile Engineers. There has been a violation of the doctrine of equal pay for equal work by pushing the Assistant Engineers in the PWD to a lower pay scale.

- The claim of Block Development Officers and Tahsildars for pay parity with the Assistant Engineers, based on the recommendations of the OMC, is unsustainable since they belong to Tamil Nadu Subordinate Services whereas the Assistant Engineers are directly recruited into the State Level Services.

(v) Submissions of Mr.MA.Gouthaman, learned counsel:

- The recommendations made by the OMC were interfered in G.O.Ms.No.71 dated 26.2.2011 whereby the grade pay was downgraded from Rs.5,400/- to Rs.5,100/-. Representations were made to the PGRC-2019 by pointing out as why such a downgrading was unsustainable. It was also brought to the notice of the PGRC-2019 that Assistant Engineers in the State Service cannot be compared with Assistant Engineers in the CPWD. However, nothing was considered. Apart from downgrading the grade pay, the pay band itself was changed and it was confirmed by the Government Order.



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- The representation made was not even considered and the PGRC-2019 has done injustice to the graduate engineers by comparing them with diploma qualified Assistant Engineers of the Government of India.

(vi) Submissions made by Mr.Naveen Kumar Murthi, learned counsel :

- The constitution of the PGRC-2019 itself with two persons, who are serving under the State Government as IAS Officers, is violative of the principles of natural justice since there was no fairness and the decision taken was a preconceived one.
- The PGRC-2019 was expected to take a fresh decision whereas it merely confirmed the earlier Government Order on the basis that the finding of the OMC is erroneous. This would clearly bring out the bias and arbitrariness on the part of the PGRC-2019.

(vii) Submissions of Mr.R.Prem Narayan, learned counsel :

- The pay of the officials of the Animal Husbandry and Veterinary Sciences Department was always fixed on par with the officers of the Agriculture Department and this pay parity was also upheld by the judgment of the Division Bench of this



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Court in W.P.No.4384 of 2023 etc. cases dated 27.1.2006 and when a higher pay scale was granted to the Deputy Director of Animal Husbandry Department to maintain horizontal relativity, the pay scale of the Deputy Director of Agriculture/ Horticulture Department should also be fixed as that of the Deputy Director of Animal Husbandry Department. The Government cannot be allowed to take a different stand contrary to the earlier stand taken in the said batch of writ petitions.

- This will equally apply to the pensioners/spouse of the pensioners, who retired as Joint Directors of Agriculture Department.

(viii) Submissions of Mr.M.Muthappan, learned counsel :

- The OMC recommended for revision of pay from Rs.9300-34800 + 4600 Grade Pay to Rs.15600-39100 + 5400 Grade Pay for the Motor Vehicles Inspector Grade I by considering the job nature and responsibilities comparable to the directly recruited Assistant Engineers. This was straight away revised to Rs.15600-39100 + 5100 Grade Pay in G.O.Ms.No.71 26.2.2011.



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- Technical Assistants/Foremen are directly recruited with B.E. qualification through the Tamil Nadu Public Service Commission and their pay is fixed on par with Assistant Engineers. In so far as the Regional Transport Officers are concerned, they are recruited as Motor Vehicles Inspector Grade II. Thereafter, they are promoted as Motor Vehicles Inspector Grade I and further promoted as Regional Transport Officers. Considering the job responsibility, the pay was fixed by the OMC and the PGRC-2019 did not even take into consideration the job responsibilities/work loads, which were explained in detail in the representations made to the PGRC-2019 on 27.12.2019.

(ix) Submissions of Mr.G.Sankaran, learned Senior Counsel :

- Some of the petitioners are working as Deputy Directors/Joint Directors in the Directorate of Industrial Safety & Health. Earlier, it was known as Inspectorate of Factories. Pay protection was granted under G.O.Ms.No.94 dated 07.3.2013 and it was not even taken into consideration by the PGRC-2019, which would show that it proceeded further in a mechanical fashion.



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- The PGRC-2019 did not take into consideration the detailed representation that was given by the association and it was not even aware of the change of post in the department and its mode of work. The PGRC-2019 has not compared the professionals in this department with the other equivalent professionals under the Labour Department, who are also carrying out similar line of work. In short, the PGRC-2019 failed to consider the minimum educational qualification prescribed for the post, the method of recruitment and the nature of duties, responsibilities and accountability. This was dealt with in detail in the representation given by the association. However, this was not even taken into consideration by the PGRC-2019.
- The High Court can always interfere with the decision pertaining to pay fixation and pay parity when it is found that the decision is unreasonable, unjust and prejudicial to the section of employees and when such a decision is taken in ignorance of the materials placed and other relevant factors.



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37. The other counsel appearing for the petitioners in the respective writ petitions adopted the above arguments in favour of their case.

38. Per contra, Mr.C.S.Vaidyanathan, Senior Counsel assisted by Ms.C.N.G.Niraimathi, learned counsel appearing for the State made the following submissions :

- The OMC went wrong in upgrading the scale of pay of the Assistant Engineers and it had a cascading effect. This was set right by the Government by appointing the PGRC-2019. Ultimately, the PGRC-2019 had elaborately gone into the grievances expressed in the representations and arrived at a decision, which is consistent with the vertical and the horizontal equalities. Considering the limited jurisdiction available to this Court for judicial review in respect of pay fixation, the present writ petitions are liable to be dismissed.
- The PGRC-2019 gave its recommendations after providing an opportunity to all concerned and after considering the grievances expressed by them.
- The earlier recommendations made by the PGRC-2012, which



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culminated into G.O.Ms.No.242 dated 22.7.2013, were questioned mainly on the ground that no opportunity was given to the affected persons and therefore, they were violative of the principles of natural justice and that they were headed by a bureaucrat and hence, there was an element of administrative bias. These two main grievances were set right by the PGRC-2019 and it has given its recommendations and therefore, there are no grounds to question the recommendations made by an expert committee.

- The OMC exceeded in its terms of reference by fixing the scale of pay of Assistant Engineers in Pay Band-3 when the scope of the OMC was only to rectify the anomaly consequent on the implementation of the revised scales of pay or in the method of fixation of pay or other benefits on pay revision pursuant to the coming into the force of the Sixth Pay Commission.
- The recommendations of the OMC led to both the vertical and the horizontal disparities in various categories of posts warranting immediate attention and it had resulted in the issuance of G.O.Ms.No.71 dated 26.2.2011.



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- The report of the PGRC-2012 led to downgrading of the scales of pay of Assistant Engineers from Pay Band-3 to Pay Band-2. But, it did not disturb the Grade Pay of Rs.5,100/- fixed in G.O.Ms.No.71 dated 26.2.2011.
- The recommendations of the PGRC-2019 in endorsing the earlier recommendations made by the PGRC-2012 do not suffer from any lack of reason or non application of mind warranting interference of this Court.
- All the grounds raised, which can be categorized as in violation of the principles of equality/equation of posts/equal pay for equal work, will apply only if the issue is regarding fixing/enhancing/upgrading the scales of pay and they will not apply to the case of revision of scales of pay made on pay scale-to-pay scale basis.
- Downgrading of the pay of the Assistant Engineers was only on account of rectifying the anomalies in the method of fixation of pay scales in tandem with the pre-revised scales of pay.
- The Assistant Engineers do not fulfil the criteria to claim parity with Sub-Divisional Officers. They have now been fixed in the



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correct pay band namely Pay Band-2 and thereby they were placed in the pay scale of Rs.9300-34800 + Grade Pay of Rs.5,100/-. By bringing them within this pay scale, they are now placed above their feeder categories as well as their subordinates and they were not reverted to their feeder categories as alleged.

- Most of the grounds that were raised in these writ petitions were directed towards seeking revision of scale of pay to the Assistant Engineers and not directed towards the anomaly, which was actually the point in issue and it was rightly considered by the PGRC-2019.
- The issue involved in all these cases is not about the legality or illegality or the validity or invalidity of the recommendations of the OMC/the PGRC-2012, G.O.Ms.No.71 dated 26.2.2011 and other Government Orders. The issue is as to whether the recommendations of the PGRC-2019, which culminated into the issuance of the impugned Government Orders, are sustainable. The PGRC-2019 has set forth reasons while issuing the recommendations and the scope of judicial review is very limited on such recommendations by an expert



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body.

- The learned Senior Counsel appearing on behalf of the State, in order to substantiate his submissions regarding the scope of judicial review in pay fixation matters, relied upon the judgment of the Apex Court in the case of ***Union of India Vs. Indian Navy Civilian Design Officers Association [reported in 2023 SCC OnLine SC 173]***.

Discussions :

39. After the issuance of the Sixth Pay Commission Recommendations, the State of Tamil Nadu constituted an official committee in the year 2009 to examine and make necessary recommendations for revision of scale of pay and allowances to the State Government employees and teachers including the Local Body employees. The said official committee submitted its recommendations including revised pay scales on 'pay scale-to-pay scale' basis and the revision was indicated in Schedule I to the Government Order in G.O.Ms.No.234 dated 01.6.2009. It was also made clear that the anomalies in the pay scale pointed out by the association/individual employees should be examined by the Government separately and



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suitable orders should be issued thereon. These recommendations were also accepted by the Government. The OMC was constituted to examine the anomalies, if any.

40. The terms of reference of the OMC are :

- (a) implementation of the revised scales of pay;
- (b) method of fixation of pay in the revised pay structure;
- (c) other benefits on pay revision.

The OMC was expected to find out if there are any anomalies consequent upon the above three terms identified.

41. The OMC considered the qualification, the nature of duties, the job responsibilities attached to the post and also the local relativity wherever the anomalies were pointed out. Accordingly, wherever the revision was required, such recommendations were made and in all the other cases, it was found that there was no anomaly. The entire controversy had arisen only due to the recommendations of revision of pay made to the Assistant Engineers and their equivalent and on par posts. The OMC recommended pay of the Assistant Engineers, who worked at the section level, on par with Group I Officers and Sub-



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Divisional Officers. The OMC exhaustively dealt with engineers at the levels of Chief Engineer, Executive Engineer, Assistant Executive Engineer and Assistant Engineer. This post was taken into consideration under various departments namely Agricultural Engineering Department, Highways and Minor Ports Department, Industries and Commerce Department, Motor Vehicle and Maintenance Department, etc.

42. The OMC submitted its report to the Government on 31.3.2010. The Government accepted the report of the OMC and issued Government Orders in G.O.Ms.Nos.254 to 340 dated 26.8.2010. Thereafter, representations started pouring in to the Government to extend the higher scale of pay/grade pay that was granted to the Assistant Engineers, Agricultural Officers, etc., to other departments' officers like Veterinary Assistant Surgeon, Inspector of Fisheries and other equivalent cadres in different departments, who were enjoying pay parity with Assistant Engineers earlier.

43. That apart, the revised pay scale/grade pay was also applied to the promotional post in each department and as a result, there



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arose a difficulty in maintaining the horizontal parity across the departments and also the age old system of keeping the Sub-Divisional Post and Group I post at one level above the sectional level post. The pay revision given to the Assistant Engineers, Agricultural Officers, etc., by placing them on par with Group I Service, resulted in resentment among the categories like Deputy Collectors, Assistant Directors (Panchayats) and Deputy Superintendents of Police, who sought for revision one level above the Assistant Engineers. Such revision was found to be impossible as the pay of Group A entry level post cannot go above the entry level post of All India Service.

44. A chain of demands started pouring in and the Government thought that there is an increase in discontent among the State Government employees and huge financial outflow, which may result in the revision of pay recommended. Therefore, the Government wanted to re-examine the revision of scales recommended by the OMC. This has resulted in the issuance of G.O.Ms.No.71 dated 26.2.2011. By virtue of this Government Order, the scale of pay granted by the OMC was cancelled and thereby there was downgrading of the scales of pay of about 52 categories in various departments. It



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was also decided to appoint a committee to redress the grievance raised pursuant to the report of the OMC.

45. G.O.Ms.No.71 dated 26.2.2011 became a subject matter of challenge in a batch of writ petitions. The learned Single Judge of this Court was pleaded to dismiss all the writ petitions by a common order dated 08.3.2012. The learned Single Judge also directed the Government to issue appropriate orders to appoint a new committee for examining the grievances of all concerned. The common order dated 08.3.2012 passed by the learned Single Judge became the subject matter of challenge in writ appeals, in which, an order of stay was granted except the appointment of the committee and as a result, the PGRC-2012 came to be constituted consisting of a chairman and two members.

46. The terms of reference of the PGRC-2012 were to examine all the representations received and the further representations to be received from the association/department/individual employees relating to anomalies in the revised pay structure and to make specific recommendations on the representations/anomalies. The PGRC-2012



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made its recommendations, which resulted in the issuance of G.O.Ms. No.242 dated 22.7.2013. The Assistant Engineers were placed in Pay Band-2 in the scale of pay of Block Development Officers, Tahsildars, Inspectors of Police, etc., instead of Pay Band-3. That apart, there were also recommendations to downgrade the pay of several officers including five categories of officers in G.O.Ms.No.71 dated 26.2.2011. It was made clear that the excess payment made would be waived and that the revised scales of pay would be subject to the outcome of the final verdict in the appeals that were pending before the Division Bench.

47. The Division Bench, therefore, considered the appeals arising out of the common order passed by the learned Single Judge dismissing the writ petitions challenging G.O.Ms.No.71 dated 26.2.2011 and also the fresh writ petitions challenging G.O.Ms.No.242 dated 22.7.2013, which was issued for implementing the recommendations of the PGRC-2012.

48. The Division Bench took into consideration the settled position of law that the jurisdiction of the Court is very limited in the



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matter of pay fixation, which has to be gone into only by an expert body. The Division Bench also took into consideration the fact that the Pay Commission has only two functions namely (i) to revise the existing pay scale by recommending the revised pay scale corresponding to the pre-revised pay scale; and (ii) to make recommendations for upgrading or downgrading posts resulting in higher pay scales or lower pay scales depending upon the nature of duties and functions attached to those posts. For this purpose, the Division Bench took into consideration the judgment of the Apex Court in the case of ***State of West Bengal & another Vs. West Bengal Minimum Wages Inspectors Association & Others [reported in 2010 (5) SCC 225]***.

49. Having taken into consideration the scope of judicial review, the Division Bench came to the conclusion that there was a violation of the principles of natural justice by not properly affording opportunity to the stakeholders while reducing the scales of pay and felt that it requires a fresh consideration by the Government after giving opportunity to all concerned. The Division Bench also took note of the



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fact that every time the Government Officers are appointed to head the committee, it tends to lead to an administrative bias and therefore, the Division Bench thought it fit to have a committee headed by a retired Judge of the High Court. The directions that were already issued by the Division Bench at paragraph 51 of the common judgment have already been extracted supra. Clauses (iii) & (v) of paragraph 51 of the common judgment of the Division Bench are to be noted and they will have a lot of significance while reaching a conclusion in this case.

50. The focus shifted to the Apex Court when the common judgment of the Division Bench was put to challenge by both the Government as well as the employees and their associations. The Apex Court considered the issues in a batch of appeals in Civil Appeal No.10029 of 2017 etc. cases. The Apex Court took into consideration the fact that the revision of pay scales recommended by the OMC for Assistant Engineers widened the gap between the post of Assistant Engineers and the post immediately lower than that. That apart, the post of Assistant Engineer and the next level



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of promotion i.e the post of Assistant Executive Engineer were brought almost at the same level. As a result, several anomalies cropped up, which have to be addressed by the Government and hence, the Apex Court did not find fault with the Government constituting the PGRC-2012.

51. The Apex Court also came to the conclusion that it is always left open to the Government to reconsider the acceptance of the recommendations of the OMC when several anomalies were found out and that therefore, the constitution of the PGRC-2012 could not be faulted or rendered as invalid. The Apex Court, having given the above findings, concurred with the findings of the Division Bench of this Court on the ground of violation of the principles of natural justice by issuing the Government Orders pursuant to the recommendations of the PGRC-2012. Therefore, the Apex Court held that there was no error in the approach and the directions that were issued by the Division Bench of this Court.



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52. The direction Nos.(iii) and (v) to (vii) issued by the Division Bench in the common judgment dated 27.2.2014 in paragraph 51 were accepted and no changes were made. In so far as direction No.(i) is concerned, the Hon'ble Mr.Justice D.Murugesan was appointed as the Chairman in the place of the Hon'ble Mr.Justice A.S. Venkatachalamoorthy, who expressed his unwillingness. Therefore, with regard to direction No.(ii) in paragraph 51, the Apex Court added that the Chairman of the PGRC would be at liberty to co-opt any **two experts** as he deemed appropriate as members of the PGRC. This is apart from the liberty that was given to the Government to nominate one or two members.

53. Pursuant to the above order passed by the Apex Court, the PGRC-2019 was constituted under the chairmanship of the Hon'ble Mr.Justice D.Murugesan. At the risk of repetition, it is very pertinent to take note of the terms of reference infra :

"a. The Pay Grievance Redressal Committee shall examine all the representations received from associations/individual employees relating to anomalies in respect of pay structure ordered based on the recommendations of One Man Commission 2010,



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G.O.Ms.No.71, Finance (Pay Cell) Department, dated 26.2.2011 and G.O.Ms.No.242, Finance (Pay Cell) Department, dated 22.7.2013.

b. To re-examine the orders issued in G.O.Ms.No. 71, Finance (Pay Cell) Department, dated 26.2.2011, the report and recommendation of the earlier Pay Grievance Redressal Cell and G.O.Ms.No.242, Finance (Pay Cell) Department, dated 22.7.2013.

c. The Pay Grievance Redressal Committee shall make specific recommendations to Government on the representations/anomalies considered.

d. The Pay Grievance Redressal Committee shall submit its report to Government within a period of four months."

54. A careful reading of the terms of reference shows that the PGRC-2019 was supposed to examine the representations received from association/individual employees and consider the same to find out as to whether the recommendations of the OMC were correct or the recommendations of the PGRC-2012 , which culminated into G.O.Ms.No.242 dated 22.7.2013, which, in turn, confirmed the decision taken in G.O.Ms.No.71 dated 26.2.2011, are correct. In the first place, the very terms of reference made in G.O.Ms.No.381 dated 04.12.2019 are not in line with the



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directions issued by the Division Bench of this Court, which were confirmed by the Apex Court.

55. The Division Bench made it abundantly clear that the PGRC to be constituted would take a fresh decision regarding the enhancement/reduction of pay scale/grade pay of 52 or more categories of 20 or more departments. That apart, the Division Bench also stopped the implementation of G.O.Ms.No.71 dated 26.2.2011 and G.O.Ms.No.242 dated 22.7.2013. Hence, the findings of the OMC and the PGRC-2012, which culminated into G.O.Ms.No.242 dated 22.7.2013, will become irrelevant and the PGRC-2019 was expected to apply its mind afresh.

56. In other words, the PGRC-2019 was expected to start from the stage, at which, the OMC had started its mission. To make it even more clearer, the task of the PGRC-2019 must be substituted to the task of the OMC and in G.O.Ms.No.358 dated 20.8.2008, the word "**OMC**" must be literally replaced by the PGRC-2019. This was exactly what was expected from the PGRC-



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2019 by the Division Bench when the directions were issued to the effect that the PGRC-2019 must take a fresh decision regarding the enhancement/reduction of the pay scale/grade pay. This Court finds that the very terms of reference made to the PGRC-2019 by binding/confining its scope to the OMC, G.O.Ms.No.71 dated 26.2.2011, the PGRC-2012 and G.O.Ms.No.242 dated 22.7.2013, are erroneous.

57. Once the very foundation of the terms of reference is found to be erroneous, the ultimate result that came out of the PGRC-2019 is also bound to be erroneous since the PGRC-2019 merely looked into the OMC on the one hand and the PGRC-2012 on the other hand and gave its stamp of approval for the PGRC-2012, which culminated into G.O.Ms.No.242 dated 22.7.2013.

58. This Court is redolent with the judgment of the Apex Court in the case of ***Cholan Roadways Limited Vs. G. Thirugnanasambandam [reported in 2005 (3) SCC 241]*** wherein in paragraph 34, it has been held thus :



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"This decision also has no application to the facts of the present case. In the instant case the Presiding Officer, Industrial Tribunal as also the learned Single Judge and the Division Bench of the High Court misdirected themselves in law insofar as they failed to pose unto themselves correct questions. It is now well-settled that a quasi-judicial authority must pose unto itself a correct question so as to arrive at a correct finding of fact. A wrong question posed leads to a wrong answer. In this case, further more, the misdirection in law committed by the Industrial Tribunal was apparent insofar as it did not apply the principle of Res ipsa loquitur which was relevant for the purpose of this case and, thus, failed to take into consideration a relevant factor and furthermore took into consideration an irrelevant fact not germane for determining the issue, namely, the passengers of the bus were mandatorily required to be examined. The Industrial Tribunal further failed to apply the correct standard of proof in relation to a domestic enquiry, which in "preponderance of probability" and applied the standard of proof required for a criminal trial. A case for judicial review was, thus, clearly made out."



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59. In the above judgment, the Apex Court held that where an authority has posed a wrong question to itself, it will only lead to a wrong answer and that, by itself, will make out a case for judicial review.

60. This Court also had an opportunity to go through the detailed representations that were given by the association/ individual employees before the PGRC-2019, which require independent assessment to come to a right conclusion. However, due to the erroneous terms of reference, the PGRC-2019 has merely considered those representations in the light of the OMC and the PGRC-2012 and as a result, instead of taking an independent decision, every finding of the PGRC-2019 points out only to the fact as to why the recommendations of the OMC were wrong and that the recommendations of the PGRC-2012 resulting in G.O.Ms. No.242 dated 22.7.2013 were right.

61. In the light of the mindset on the part of the PGRC-2019, it did not have an open mind in approaching some of the important



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issues that were flagged by the association/individual employees.

In a way, the findings of the PGRC-2019 suffer from confirmation bias since the PGRC-2019 has confirmed almost all the findings of the PGRC-2012, which resulted in passing of G.O.Ms.No.242 dated 22.7.2013.

62. The anomalous situation arose mainly because of the change/enhancement of the scale of pay/grade pay of Assistant Engineers and its equivalent and on par posts. That is the centre of controversy, which had its cascading effect resulting in the demand being made from various other departments forcing the Government to reconsider its decision taken based on the recommendations of the OMC. This Court has already held that G.O.Ms.No.71 dated 26.2.2011 and G.O.Ms.No.242 dated 22.7.2013 are vitiated due to violation of the principles of natural justice.

63. In the light of all these findings, these two Government Orders should have been kept away and the terms of reference



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ought to have been made in line with the directions given by the Division Bench of this Court in the common judgment dated 27.2.2014. Unfortunately, the Government restricted the scope of the PGRC-2019 through its terms of reference and as a result, the recommendations also became a choice between either the OMC or G.O.Ms.No.242 dated 22.7.2013.

64. The association of engineers had raised certain important issues. They pleaded that all the professionals such as Assistant Surgeons, Additional Public Prosecutors, etc., are at the entry level post in the State Service and were fixed a particular pay scale. However, the Assistant Engineers, who are also professionally qualified and who are also placed similarly, were not granted the same pay. They also pointed out that in all the Central Services, the pay scale for the entry level post was given parity and it was maintained at Rs.15600 - 39100 + Rs.5,400/- Grade Pay. They also took a stand that the so-called vertical and the horizontal disparities pleaded by the Government is without basis. Horizontal pay parity would mean parity of pay scale between two posts



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doing the same works and having the same responsibilities under different services/departments.

65. It can be seen that till the 5th Pay Commission, consistency was, in fact, maintained among Agricultural Officer, Veterinary Assistant Surgeon, Assistant Engineer in the PWD and Assistant Surgeon and that only during the 6th Pay Commission, the pay scale of the Assistant Engineers and the Agricultural Officers was reduced. In the representations made to the PGRC-2019, this issue has been specifically raised and the petitioners concerned questioned the very basis on which, all of a sudden, there was degradation of pay scale for the directly recruited Assistant Engineers and the Agricultural Officers.

66. The Apex Court, in the decision in the case of **D.G.O.F. Employees Association**, had taken into consideration this very issue and held that wherever there is a historical parity, a sudden degradation of the scale of pay must be backed by sufficient reasons and that when entitlement is denied, there must be sufficient reasons assigned as to why such historical parity is dispensed with from the 6th



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Pay Commission.

67. For example, a Tahsildar working in Adi Dravidar Welfare Department and a Tahsildar working in the Revenue Department can be compared for horizontal parity. Similarly, an Assistant Engineer working in the Highways Department and an Assistant Engineer working in the PWD can be compared for horizontal parity.

68. So far as the vertical parity is concerned, it can be claimed only between a feeder category and its promotion category in the same hierarchy and not between two posts in different services. In the instant case, there is absolutely no clarity as to how the horizontal and the vertical pay disparities were created due to the enhanced pay scale granted to the Assistant Engineers.

69. Yet another issue that was raised was that the Assistant Engineers in the CPWD cannot be compared with the Assistant



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Engineers in the State of Tamil Nadu since, in the former, the recruits are diploma holders and also promotees from the post of Junior Engineers in Group B Service whereas in the latter, they must possess a B.E. degree and they are recruited through the Tamil Nadu Public Service Commission like Assistant Executive Engineers in the CPWD. Therefore, the Assistant Engineers in the State of Tamil Nadu are equivalent to the category of Assistant Executive Engineers in the CPWD. This Court also had an opportunity to look into the qualification of Engineers in the CPWD and this claim made by the Assistant Engineers in the State of Tamil Nadu has a lot of force.

70. There is yet another aspect that was brought in at the time of arguments. It was contended on the side of the Government that the feeder category posts are placed in the same pay band i.e posts of Assistant Engineer, Assistant Executive Engineer and Executive Engineer in the same pay band namely Pay Band-3. However, it was pointed out that this is not unusual and such a status is available in the Animal Husbandry



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Department where the posts of Assistant Veterinary Surgeon, Assistant Director and Deputy Director are found in the same pay band.

71. Similarly, in the Tamil Nadu Secretariat, the posts of Section Officer, Under Secretary and Deputy Secretary are placed in the same pay band namely Pay Band-3. This issue that was raised on the side of the Assistant Engineers again carries a lot of force. However, it was not properly considered.

72. It is also seen from the records that after the recommendations were made by the OMC, the revenue officers started agitating and were demanding pay on par with engineers on the reason of pre-existing pay scale parity. It is quite incomprehensible as to how they can claim for a parity when they do not even fall within the purview of horizontal parity with Assistant Engineers. On the one hand, the PGRC-2019 found that the engineers were claiming parity with non comparable posts like doctors whereas the pay scales of the engineers were lowered on



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the claim made by the revenue staff, who were comparing themselves with engineers.

73. In Tamil Nadu, all the entry level posts in the State Services namely Medical Services, Civil Services in Group I and Registration Services, etc., are placed at a particular pay scale and whereas the Assistant Engineers, who are also at the entry level in the State Services, are provided with a lower pay scale. This is one of the most crucial aspect, which was not gone into. It is seen that the post of Assistant Engineer was provided with a lesser pay scale than its feeder category of Senior Draughting Officer and this was not taken into consideration by the PGRC-2019.

74. The above are some of the important issues that were raised in the representations made by the association/individual employees and the same was not independently considered by the PGRC-2019. The thought process of the PGRC-2019 was basically clouded with the findings of the PGRC-2012, which resulted in G.O.Ms.No.242 dated 22.7.2013 and therefore, the results



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naturally sided with the findings of the PGRC-2012 and the consequential G.O.Ms.No.242 dated 22.7.2013.

75. This Court is aware of the limitations on the scope of judicial review into matters involving fixation of pay scale. Fixation of salary is a very complex matter, which is best left to an expert body. The scope of judicial review is confined only to cases where grave error has crept into the decision while fixing the pay scale for a given post. That apart, there are financial implications, which arise out of pay fixation and hence, it is within the exclusive domain of the State. Consequently, the judicial review involving financial implications is confined unless it is a case of grave arbitrariness and unfairness established by the aggrieved party.

76. This Court is conscious of the settled law regarding judicial review on the aspect of fixation of pay scale and the financial implications thereto. Therefore, this Court is only going into the limited issue as to whether the decision making process adopted by the PGRC-2019 suffers from illegality. In the light of



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the fact that the terms of reference had posed wrong questions to the PGRC-2019, the resultant report of the PGRC-2019 will naturally suffer from wrong answers.

77. In this batch of writ petitions, apart from Assistant Engineers belonging to various departments, there are also petitioners, who are falling under other categories like Electrical Inspectors, Assistant Electrical Inspectors, Chief Electrical Inspectors, Agricultural Officers, Assistant Directors of Agriculture, Inspectors of Fisheries and also Motor Vehicle Inspectors. This batch also includes pensioners/family pensioners, who had held the posts of Joint Director of Agriculture, Assistant Director of Horticulture, Agricultural Officer, etc. It is not necessary for this Court to get into the grievance that has been expressed on the side of these petitioners for the very same reason that the PGRC-2019 did not independently go into the grievances expressed by the respective association/individual employees and rather, it had confined its inquiry only to the correctness or otherwise of the OMC, G.O.Ms.No.71 dated 26.2.2011, the PGRC-2012 and G.O.Ms.

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78. As already held by this Court, the terms of reference were not in line with the directions issued by the Division Bench of this Court in the common judgment dated 27.2.2014 as confirmed by the Apex Court and hence, the decision making process adopted by the PGRC-2019 by confining itself to find as to whether the OMC is right or G.O.Ms.No.242 dated 22.7.2013 is right, suffers from illegality, which requires the interference of this Court.

79. It is not in dispute that if there is any pay anomaly, the Government is entitled to remove the same in accordance with law by following a proper procedure. The Division Bench of this Court thought it fit to bring in a retired Judge of this Court to head the committee so as to ensure that neutrality governs the decision making process. The Division Bench also took note of the fact that there are legal issues regarding the claim of equal pay for equal work, qualifications, nature of duties, etc., and that is why it was

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thought fit to bring in a judicial mind into the decision making process.

80. Unfortunately, the terms of reference that were made to the PGRC 2019 virtually limited the scope of consideration by the Committee when the Division Bench had specifically directed that a fresh consideration was required regarding the enhancement/reduction of the pay scales/grade pay for 52 or more categories in 20 or more departments, etc. Findings have also been rendered in this regard supra. In the meantime, the Seventh Central Pay Commission has also submitted its recommendations. The dispute has been going on for nearly 15 years and during the interregnum, the Sixth Central Pay Commission and the Seventh Central Pay Commission have given their recommendations, which are not able to be fully implemented regarding revision of scales of pay and allowances for the State Government employees including pensioners and family pensioners.



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81. In view of the above discussions, this Court is inclined to appoint a new Pay Grievance Redressal Committee (new PGRC) to deal with the representations made by the associations/individual employees and to submit their report/recommendations for taking a fresh decision regarding the enhancement/reduction of pay scales/grade pay for various categories of posts in various departments. The new PGRC shall start from the stage of the OMC that was constituted by the Government of Tamil Nadu to examine and make recommendations to the pay scales of the State Government employees in consonance with the Sixth Central Pay Commission. Once this process is undertaken, it will only be a follow through to make further recommendations examining the Seventh Central Pay Commission recommendations.

82. The new PGRC need not bind itself or restrict its decision making process by applying its mind on the OMC, G.O.Ms.No.234 dated 01.6.2009, G.O.Ms.No.71 dated 22.6.2011, the PGRC 2012, G.O.Ms.No.242 dated 22.7.2013 and the PGRC 2019, which resulted in the issuance of consequential impugned Government



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Orders. The new PGRC shall consider the issue afresh by dealing with the representations given by the associations/individual employees of various departments.

83. The upshot of the above discussions leads to the following conclusions and directions issued by this Court :

(i) The report of the PGRC 2019 and the consequential impugned Government Orders issued are hereby set aside;

*(ii) The Government shall constitute a new PGRC under the **Hon'ble Mr.Justice M.Sathyanarayanan, formerly Judge of High Court, Madras,** who shall be the Chairman of the new PGRC;*

(iii) The Chairman of the new PGRC is at liberty to co-opt two experts as he deems appropriate as Members of the new PGRC and it will be more appropriate to co-opt members, who had experience on the financial side and also on the engineering side;

(iv) The Government is at liberty to nominate one or two senior level IAS



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officer(s) at the level of Principal Secretary, serving or retired as Member(s) of the new PGRC;

(v) The remuneration for the Chairman of the new PGRC shall be fixed at Rs.3.5 lakhs per month and the remuneration of the two Members to be co-opted shall be fixed at Rs.2 lakhs each per month;

(vi) It is left open to the Government to fix the remuneration of the Member(s) of the Committee to be nominated by the Government, if he/she is/they are retired IAS Officer(s);

(vii) The Government is directed to constitute the new PGRC within a period of four weeks from the date of receipt of a copy of this order and the Government shall grant six months' time for the new PGRC to submit its recommendations regarding the enhancement/reduction of the pay scales/ grade pay of 52 or more categories of 20 or more departments, etc.;

(viii) The terms of reference of the new PGRC shall also be to examine the



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recommendations of the Seventh Central Pay Commission on the scales of pay and other allowances and make necessary recommendations in consequence of the recommendations to be made as per Clause (vii);

(ix) While making the recommendations on the scales of pay/ grade pay, the new PGRC shall take into account the historical parity, local conditions, qualifications, the nature of duties, the job responsibilities attached to the post and the local relativities. This shall also include the revision of pension, family pension, retirement benefits, etc., and the new PGRC shall make necessary recommendations;

(x) In view of the direction issued by this Court for constitution of the new PGRC, the present status quo shall be maintained until a fresh decision is taken by the Government based on the recommendations to be given by the new PGRC;

(xi) As clarified in the earlier order passed by the Division Bench in W.A.No.



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1271 of 2021 dated 27.4.2021, the pay protection that was given by virtue of the interim orders will be subject to the result of the recommendations to be given by the new PGRC, which will be implemented by the State Government; if any excess payment has been made to the petitioners, the same shall be repaid back in view of the undertaking that was given before this Court;

(xii) There shall be a direction to the State Government to make available the office premises with supporting staff and to provide a Government car with driver for the used of the Chairman of the new PGRC for the effective functioning of the Committee; and

(xiii) Within four weeks of the constitution of the new PGRC, all the concerned individuals/associations shall file their respective representations and it is made clear that no representations will be entertained beyond the period of four weeks.



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84. All the above writ petitions are accordingly allowed in the above terms. No costs. Consequently, all connected pending miscellaneous petitions are closed.

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Index : Yes
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Speaking Order : Yes

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N.ANAND VENKATESH,J

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