



WEB COPY

W.P.No.14850



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED :30.04.2024**

CORAM

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

**W.P.No.14850 of 2017**

**and**

**W.M.P.Nos.16093 and 16094 of 2017 and 18388 of 2018**

M.Periyasamy

... Petitioner

Vs.

1. The Government of Tamil Nadu,  
Represented by its Secretary, Finance Department, Fort St.George,  
Chennai – 600 009.
2. The Director of Rural Development & Panchayat Raj Department,  
Panagal Building, Saidapet, Chennai – 600 015.
3. The District Collector,  
Krishnagiri District, Krishnagiri.
4. The Block Development Officer,  
Krishnagiri Panchayat Union,  
Krishnagiri, Krishnagiri (TK & DT).

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records from the respondents 2 to 4 viz., from the office of the 4th respondent in respect of the proceedings in viz., 1305/2017/ A1 dated 10.05.2017 and 1305/2017A1 dated 10.05.2017 from the 2nd respondent in respect of his letter in Se.Mo.No. 75025/ 11/ EE2 dated 27.08.2014 and from the 3rd respondent in respect of his letter in Na.Ka.No. 32756/ 2011/ K3 dated 05.09.2017 and quash the said impugned proceedings of the 4th respondent and quash the aforesaid impugned letters of the respondents 2 and 3 in so far as fixing the pay for the petitioner in the category of Assistant Engineer as Rs. 9300+



WEB COPY

W.P.No.14850



34800+4700 instead of Rs. 15600-39100+5400

For Petitioner : Mr.N.Subramanian

For Respondent No.1 : Mr.P.S.Raman, Advocate General  
assisted by M/s.C.N.G.Niraimathi

For Respondent No.2 : M/s.E.Ranganayaki,  
Additional Government Pleader

### **ORDER**

The petitioner herein was appointed as Assistant Engineer by direct recruitment in the Rural Development and Panchayat Raj Development by the 2<sup>nd</sup> respondent with effect from 08.09.2014 and the pay of the petitioner was fixed as Rs.9300–Rs.34800 +4700/-. However, basing upon the representations made by certain Associations of Assistant Engineers of Rural Development and Panchayat Raj Department, the pay of the petitioner was re-fixed at Rs.15600–Rs.3910 +5400/-. However, subsequently through impugned proceedings dated 10.05.2017, the 4<sup>th</sup> respondent proposed to recover an amount of Rs.5,10,558/- in 43 installments from the salary of the petitioner and also issued another proceedings, cancelling the fixation of pay of the petitioner in the scale of Rs.15600 – Rs.39100 + 5400. It is aggrieved by the said proceedings dated 10.05.2017, re-fixing the pay of the petitioner and reducing the same, the petitioner approached this Court by filing the present Writ Petition, questioning the initial fixation of pay through proceedings dated 27.08.2014 and 05.09.2014 and seeking fixation of his pay in the pay of Rs.15600 – 39100/- + 5400.



2. In order appreciate the matter effectively, it is necessary to state few background facts:

2.1. The pay scales of Assistant Engineers, Assistant Executive Engineers, Executive Engineers and Superintendent Engineers working in the Rural Development and Panchayat Raj Department are always fixed basing upon the pay scales fixed in respect of the said categories working in the Public Works Department of the State. The official committee constituted to fix the pay scales of the employees in question and other employees on par with the 6<sup>th</sup> pay scale pay fixed reduced the pay scales for the Engineers viz., Assistant Engineers, Assistant Executive Engineers and Executive Engineers and in view of the said anomaly, the One Man Commission was constituted on the representation made by the Engineers throughout the State, recommended for enhanced pay scales for the above said categories and accordingly, the recommendation of the One Man Commission was accepted resulting in issuance of G.O (Ms) No.312, Public Works Department dated 26.08.2010. Basing upon the said Government order, the Government issued another Government Order in G.O (Ms) No.451, Rural Development and Panchayat Raj Department dated 31.12.2010, fixing the pay of the Engineers working in the Rural Development and Panchayat Raj Department.



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

2.3. During the pendency of the Writ Appeals, yet another order in G.O (Ms) No.242, Finance Pay Cell Department dated 22.07.2013, further reducing the pay scales of the above said categories of Engineers basing upon a recommendation made by the pay grievance redressal commission. Again another batch of Writ Petitions came to be filed vide W.P.No.21606 of 2013 and batch. The Writ Appeals filed in W.A.No.504 of 2013 and batch and the Writ Petitions filed challenging the G.O (Ms) No.242, Finance Pay Cell Department dated 22.07.2013 came to be disposed of by a common order by the learned Division Bench of this Court. The



learned Division Bench, by an order dated 27.02.2014 while constituting Pay Grievance Redressal Committee (“PGRC”, for short) lead by the former Chief Justice of Chattisgarh High Court, ordered not to implement the above said two G.Os, if they were not already implemented by the date of that order. The said directions issued by the learned Division Bench reads as under:

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

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

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

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

*(iv) The Government is directed to constitute the above said committee within a period of three weeks from the date of receipt of copy of this order, prescribing time limit, within which*



*report/recommendations is to be submitted for taking fresh decision.*

WEB COPY

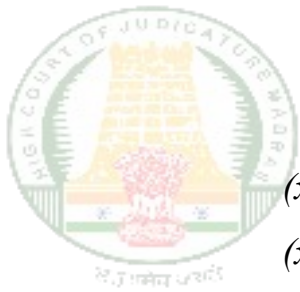
*(v) In view of the constitution of the above said Committee as ordered above, the implementation of G.O.Ms.No.71 dated 26.02.2011 and G.O.Ms.No.242 dated 22.07.2013 insofar as it affects any category of Government Servants/pensioners/family pensioners, which are not implemented as on today shall not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

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



WEB COPY

(x) *There is no order as to costs.*

(xi) *Connected miscellaneous petitions are closed.”*

3. Aggrieved by the said order passed by the learned Division Bench, the State as well as other affected parties approached the Hon'ble Apex Court. The Hon'ble Apex Court in C.A.Nos.10029 & 10030 of 2017 passed an order dated 28.11.2019, partially modifying the order passed by the learned Division Bench in paragraph 51 (v) of its order. The relevant directions issued by the Hon'ble Apex Court are as under:

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

*A) Direction No.(i) as issued by the Division Bench is reiterated except that Mr. Justice A.S.Venkatachalamoorthy having now expressed his unwillingness, Mr.Justice D.Murugesan, formerly Chief Justice, High Court of Delhi is appointed as Chairman of Pay Grievance Redressal Committee.*

*B) Direction No.(ii) as issued by the Division Bench is*



*accepted and it is added that the Chairman of the PGRC will be at liberty to co-opt any two experts as he deems appropriate as members of the PGRC, who shall be paid such honorarium by the State Government, as the Chairman deems appropriate.*

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

*D) Instead of R.1.5 lakhs per month, we fix the honorarium of the Chairman of the PGRC at Rs.3.5 lakhs per month by the other parts of Direction No.(viii) are maintained.*

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

*F) It is further directed:-*

*(a) Within a week from today, the State Government shall issued appropriate orders constituting the PGRC as stated above.*

*(b) Within a week thereafter, the State Government shall make appropriate and adequate arrangements and provide office space befitting the status of the Chairperson and other Members and also provide adequate staff, secretarial assistance and other facilities.*

*(c) Within two weeks of the constitution of the PGRC all the concerned individuals/associations shall file their representations. No representation filed beyond the period of two weeks shall ordinarily be accepted by the*



WEB COPY

W.P.No.14850



*PGRC.*

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

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

*19. It is clarified that regardless of the decision to be taken by the PGRC, any amount paid by way of financial benefit extended to and enjoyed by the concerned employees shall not be recovered i.e. to say that in case the decision in pursuance of the recommendations of the PGRC results in reduction in pay-scales or emoluments as were granted pursuant to GOs dated 26.08.2010, such reduction shall be prospective in application from the day the recommendations of the PGRC come into effect.”*

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



5. Pursuant to the orders passed by the Hon'ble Apex Court as noted above, the Pay Grievance Redressal Committee has gone into the matter and a report was submitted to the Government resulting in issuance of G.O.Ms.No,420 Finance (Pay Cell) Department, dated 12.11.2020. The said Government order, dated 12.11.2020 was again the subject matter of challenge in a batch of writ petitions before a learned Single Judge of this Court. The said batch of writ petitions came to be disposed of by common order dated 04.04.2024, wherein, the learned Judge set aside the impugned Government order therein and reconstituted the PGRC. The matter is now pending for consideration before the PGRC as constituted by an order dated 04.04.2024, by the learned Single Judge of this Court in W.P(MD)No.17163 of 2020 and batch. The learned Single Judge while disposing of the said batch of writ petitions and constituting the new PGRC, directed the maintenance of *status quo* until a fresh decision is taken by the Government based on the recommendations to be given by the new PGRC.

6. In view of the said order passed by the learned Single Judge of this Court read with the orders passed by the learned Division Bench and the Hon'ble Apex Court as noted above, the question of giving effect to the impugned G.O. issued in G.O.Ms.No.242 does not arise. Further, the validity of the said impugned



Government order is also subjected to the report to be submitted by the newly constituted PGRC and consequential orders to be passed by the Government with regard to fixation of pay of all the categories in question i.e., Executive Engineer, Assistant Executive Engineer & Assistant Engineer.

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

8. Heard Sri. Mr.N.Subramanian, learned counsel appearing for the petitioners and Sri.P.S.Raman, learned Advocate General appearing for the respondent.

9. Both the counsels fairly submitted that the impugned action of the



respondents in reducing the pay of the petitioner herein in the teeth of various orders passed by this Court as well as the Hon'ble Apex Court cannot be allowed to stand. However, it is also agreed that the petitioner is not entitled to migrate to VII central pay scales until and unless, the issue pertaining to the fixation of pay under the VI Central pay scale is finalised. It is also mutually agreed that the petitioner is also not entitled to retain the benefit of excess amounts received with effect from 01.01.2016, in case if the such amounts are found to be in excess of the amounts payable to the petitioner pursuant to the pay fixed in respect of the posts of Assistant Engineers pursuant to the orders passed by a learned Single Judge in W.P (MD) No.17163 of 2020 and batch dated 04.04.2024, or otherwise.

10. The learned counsel for the petitioner also further submitted that the petitioner is ready and willing to file appropriate undertaking agreeing to refund or consent for recovery of such excess amounts, if any received with effect from 01.01.2016. Insofar as the amounts that are paid with effect from 01.01.2006 to 31.12.2015 is concerned, the same are covered by the order passed by the Hon'ble Apex Court, as noted above at Paragraph No.19 of the said order.

11. In the light of the above, the Writ Petition is disposed of directing the respondents to allow the petitioner to draw the pay scales in terms of the



Government order in G.O (Ms) No.451, Rural Development and Panchayat Raj Department dated 31.12.2010, however subject to the limitations agreed above and also subject to the pay scales to be fixed pursuant to the orders passed in W.P(MD) No.17163 of 202 dated 04.04.2024, or otherwise. It is once again made clear that the petitioner herein is not entitled to migrate to VII Central pay scales unless and until the pay of the post of Assistant Engineer is fixed finally in the VI Central pay scales.

12. Accordingly, the Writ Petition stands disposed of. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

**30.04.2024**

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Secretary to Government of Tamil Nadu,  
Finance Department, Fort St.George,  
Chennai – 600 009.
2. The Director of Rural Development & Panchayat Raj Department,  
Panagal Building, Saidapet,  
Chennai – 600 015.



W.P.No.14850



3. The District Collector,  
Krishnagiri District, Krishnagiri.
4. The Block Development Officer,  
Krishnagiri Panchayat Union,  
Krishnagiri, Krishnagiri (TK & DT).

**MUMMINENI SUDHEER KUMAR, J.**  
skr

**W.P.No.14850 of 2017**



WEB COPY

W.P.No.14850



**30.04.2024**