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W.P.Nos.28571 to 285



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.04.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.28571 to 28573 of 2017

and

W.M.P.Nos.30732, 30733, 30735, 30736, 30738, 30739 of 2017

and

W.M.P.Nos.29155 to 29157 of 2018

W.P.No.28571 of 2017

- 1.R.Subash
- 2.J.Ramamurthy
- 3.K.Sundaresan
- 4.V.Periasamee
- 5.P.Banukumar
- 6.A.Nachan

... Petitioners

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary Finance Department,
Fort St. George, Chennai – 600 009.
2. The Greater Chennai Corporation,
Represented by its Commissioner,
Chennai – 600 003.
3. The Regional Deputy Commissioner,
North Region, Greater Chennai Corporation,
61, Basin Bridge Road, Rayapuram,
Chennai – 600 021.
4. The Regional Deputy Commissioner,



South Region, Greater Chennai Corporation,
115, Direct Recruitment, Muthulakshmi Salai,
Adayar, Chennai – 600 020.

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5. The Regional Deputy Commissioner,
Central Region, Greater Chennai Corporation,
36B, Avenue, Shenoy Nagar,
Chennai – 600 030.

6. The Zonal Officer, Zone No.7,
Greater Chennai Corporation,
Ambathur, Chennai – 600 053

7. The Financial Advisor,
Greater Chennai Corporation,
Rippon Building, Chennai – 600 003.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the file of 3rd respondent in respect of his proceedings in Va.Va.A. Na.Ka.No.A3/ 3193/ 2017 dated 17.07.2017 and in Se.Maa.Ma. A.3. Na.Ka. No.A3/ 6009/ 2015 dated 20.09.2016 on the file of the 4th respondent in respect of his proceedings Va.A (South) A1/ 1615/ 2017 dated 03.05.2017 on the file of the 5th respondent in respect of his proceedings in Ma.Va. A. Na.Ka. No.A3/ 4284/ 2017 dated 03.05.2016, Ma.Va.A. Na.Ka. No.A4/3003/ 2017 dated 08.05.2017 and in Ma.Va.A. Na.Ka. No.A3/5089/ 2017 Ma.A.Na.Ka. No.A1/ 2146/ 2017 dated 27.07.2017 on the file of the 6th respondent in respect of his proceedings in Ma.A.7 Na.Ka. No.A1/ 1858/ 16 dated 26.07.2016 and on the file of the 1st respondent in respect of the Letter No.53137/Pay Cell/2015-1 dated 25.09.2015 issued by their Principal Secretary and quash the same and in respect of the above stated said proceedings of the respondents 3 to 6 only insofar as reducing



the pay scales of the petitioners concerned from 15600-39100+7600 to 15600-39100+6600 and consequently to direct the respondents to restore the pay scales of the petitioner to Rs.15600-39100+7600 from the date on restore the pay scales of the petitioners to Rs.15600-39100+7600 from the date on which the pay scales for the petitioners were lowered/ reduced and to pay the consequent arrears of pay.

W.P.No.28572 of 2017

1. C.Lawrence
2. T.K.Ganesan
3. Sahubar Hussain
4. N.Thirumurugan

... Petitioners

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary Finance Department,
Fort St. George, Chennai – 600 009.
2. The Greater Chennai Corporation,
Represented by its Commissioner,
Chennai – 600 003.
3. The Regional Deputy Commissioner,
North Region, Greater Chennai Corporation,
Rippon Buildings, Chennai – 600 003.
4. The Accounts Officer (Buildings),
The Greater Chennai Corporation,
Rippon Buildings, Chennai – 600 003.
5. The Financial Advisor,
Greater Chennai Corporation,
Rippon Building, Chennai – 600 003.

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the file of 1st respondent in respect of his proceedings in Po.Thu. Na.Ka.No.E1/ 20623/ 2014 dated 11.07.2014 and Po.Thu.Na.Ka. No.E1/18898/ 2013, dated 29.12.2014 only in so far as fixing the pay scale of Rs.15600- 39100+6600 instead of Rs.15600- 39100+7600 for the petitioners, on the file of the 3rd respondent in respect of his proceedings in Ma.Nee.Va. Thu.Na.Ka. No.A2/2064 dated 30.1.2017 and in proceedings in Ka.Thu.Na.Ka. NO.E4/698/2017 dated 26.7.2017 only in so far as fixing the pay scale of Rs.15600-39100+6600 instead of Rs.15600-39100+7600 for the petitioners on the 4th respondent in respect of his Note in UAC/B/B2/Spl/2017 dated 13.9.2017 and on the file of the 1st respondent in respect of the Letter No.53137/Pay Cell/2015-1 dated 25.09.2015 issued by their Principal Secretary and quash the same and consequently direct the respondents to fix the pay scale of Rs.15600-39100+7600 for the petitioners.

W.P.No.28573 of 2017

- 1.B.Sivakumar
- 2.P.S.Srinivasan
- 3.A.B.Sreekumar
- 4.J.Jayakanth
- 5.K.Sundararajan
- 6.M.Thilagam
- 7.L.Sridaran
- 8.T.Saravanabavanatham
- 9.M.Kamraj
10. S.Pradeep Kumar
11. R.Nehru Kumar
12. R.Suresh Kumar
13. R.A.Prabhakar
14. B.Sivasankar



15. M.Pugazhendhi
16. R.Jayakumar
17. V.Chinnadurai

... Petitioners

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Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary Finance Department,
Fort St. George, Chennai – 600 009.
2. The Greater Chennai Corporation,
Represented by its Commissioner,
Chennai – 600 003.
3. The Accounts Officer (E),
The Greater Chennai Corporation,
Chennai – 600 003.
4. The Accounts Officer (Buildings),
The Greater Chennai Corporation,
Chennai – 600 003.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of 3rd respondent in respect of his Memo Pa.Ka.KU.E.Na.Ka.No./A1/ Special/ 2017 dated 06.09.2017; on the file of 4th respondent in respect of his Note in UAC/B/B2/Spl/2017 dated 13.09.2017 and on the file of 1st respondent in respect of Letter No.53137/ Pay Cell/ 2015-1 dated 25.09.2015 issued by the Principal Secretary to 1st respondent and quash the same.

For Petitioner : Mr.N.Subramanian

For R1 : Mr.P.S.Raman, Advocate General
assisted by M/s.C.N.G.Niraimathi

For R2 : M/s.E.Ranganayaki,
Additional Government Pleader



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COMMON ORDER

All the petitioners in this batch of Writ Petitions were initially appointed as Assistant Executive Engineers in the respondent/ Corporation and thereafter, they were promoted to the post of Executive Engineer during the period 2014-2015. In the said post of Executive Engineer, the pay-scales of the petitioners were fixed at Rs.15600-39100+7600 on par with the Executive Engineers, who were working in other Engineering Departments. However, subsequently through the impugned proceedings, the pay of the petitioners were reduced to Rs.15600-39100+6600, without issuing any notice to the petitioners. It is aggrieved by the said orders, the petitioners approached this Court by filing the present Writ Petitions.

2. The fixation of payscales in the cadre of Assistant Engineers, Assistant Executive Engineers and Executive Engineers in the Engineering Departments of the State as well as the respondent/ Corporation has got a chequered history and 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,



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



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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 Charimanship 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.



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

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

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



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Committee.

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

(x) There is no order as to costs.

(xi) Connected miscellaneous petitions are closed.”

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



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Justice, High Court of Delhi is appointed as Chairman of Pay Grievance Redressal Committee.

B) Direction No.(ii) as issued by the Division Bench is accepted and it is added that the Chairman of the PGRC will be at liberty to co-opt any two experts as he deems appropriate as members of the PGRC, who shall be paid such honorarium by the State Government, as the Chairman deems appropriate.

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

D) Instead of R.1.5 lakhs per month, we fix the honorarium 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



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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 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 No.1 and M/s.E.Ranganayaki, learned Additional Government Pleader appearing for the Respondent No.2.

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.

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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 Petitions are 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.



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

30.04.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Secretary to Government of India, Finance Department,
Fort St. George, Chennai – 600 009.
2. The Commissioner, Greater Chennai Corporation, Chennai – 600 003.
3. The Regional Deputy Commissioner, North Region,
Greater Chennai Corporation, 61, Basin Bridge Road,
Rayapuram, Chennai – 600 021.
4. The Regional Deputy Commissioner, South Region,
Greater Chennai Corporation, 115, Direct Recruitment,
Muthulakshmi Salai, Adayar, Chennai – 600 020.
5. The Regional Deputy Commissioner, Central Region,
Greater Chennai Corporation, 36B, Avenue, Shenoy Nagar, Chennai – 30.
6. The Zonal Officer, Zone No.7, Greater Chennai Corporation,
Ambathur, Chennai – 600 053
7. The Financial Advisor, Greater Chennai Corporation,
Rippon Building, Chennai – 600 003.



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8. The Accounts Officer (Buildings), The Greater Chennai Corporation,
Rippon Buildings, Chennai – 600 003.

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