



W.P.(MD)No.12955 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.12955 of 2024

P.A.Nazeerudeen

... Petitioner

Vs.

1.The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai-600 009.

2.The Director of Rural Development and Panchayat Raj,
Panagal Building,
Saidapet, Chennai.

3.The District Collector,
Tenkasi,
Tenkasi District

4.The Commissioner,
Keelapavoor Panchayat Union,
Pavoorchathram,
Tenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to take action on petitioner's representation dated 01.06.2024 seeking to pass orders of excess payment allegedly made amounting to Rs.13,78,702/- (Rupees Thirteen Lakh



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Seventy Eight Thousand Seven Hundred and Two only) and consequently to direct the respondents to permit the petitioner to retire on superannuation on 30.06.2024.

For Petitioner : Mr.R.J.Karthick

For R-1 to R-3 : Mr.S.Shanmugavel,
Additional Government Pleader

For R-4 : Mr.K.Christy Theboral
Additional Government Pleader

ORDER

By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.R.J.Karthick, learned counsel appearing for the petitioner, Mr.S.Shanmugavel, learned Additional Government Pleader appearing for respondent Nos.1 to 3 and Mr.K.Christy Theboral, learned Additional Government Pleader appearing for the fourth respondent.

3. This Writ Petition has been filed seeking direction to the respondent to take action on the petitioner's representation dated 01.06.2024 and consequently to direct the respondents to permit him to retire on 30.06.2024.



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4. The case of the petitioner is that the petitioner is appointed as 'Pump Maintainer' on 29.10.1987 in the office of the Divisional Development Office, Tenkasi. On 01.01.1996, the petitioner was appointed as 'Street Light Maintainer' in the office of the fourth respondent and thereafter, he was observed as 'Electric Assistant' in the office of the fourth respondent and the petitioner's post fall in the Group 'C' category.

4.1. In the year 2022, the fourth respondent has issued a notice to the petitioner in accordance with Paragraph No.4 (2) of the Government Order in G.O.(Ms).No.289, Finance (Pension) Department, dated 28.08.2018, calling upon him to show cause as to why his pay fixation should not be received. The petitioner submitted a reply on 28.06.2022 stating that the proposal to revise the petitioner's pay is arbitrary and unreasonable. The fourth respondent vide proceedings in Rc No.A1/1092/2022, 29.06.2022 rejected the same. The petitioner also preferred an appeal to the third respondent and now, it is pending without any progress. Thereafter, the fourth respondent, vide letter Rc.No.A1/1092/2022, dated 05.09.2022, sent a detailed proposal to the third respondent resulting in excess payment of Rs.13,78,702/- (Rupees Thirteen Lakhs Seventy Eight Thousand Seven Hundred and Two only) and the third respondent has requested to forward the case to the Government for express



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waiver orders in favour of the petitioner in view of the settled principle that recovery from Group 'C' and 'D' Class employees is impermissible in law.

4.2. Hence, the petitioner sent a representation to the first respondent on 01.06.2024 praying to pass orders of the waiver of excess payment allegedly made and also direct the third respondent to permit him to retire on 30.06.2024. Since the same has not been considered, the petitioner has filed this present Writ Petition.

5. Mr.R.J.Karthick, learned counsel appearing for the petitioner would submit that necessary exemption orders may be issued for waiving the excess payment made and a direction be issued to the third respondent to permit the petitioner to retire on 30.06.2024.

6. It is needless to point out that whenever a representation of this nature is made to a Government Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. The failure on the part of the authority had prompted the petitioner to file this petition for seeking relief through issuance of Writ of Mandamus. As the petitioner has made out a



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case for invoking the extraordinary powers of this Court under Article 226 of the Constitution of India, the respondents are required to be given with a direction to consider the representation of the petitioner within a specified time frame.

7. In the light of the above, this Writ Petition is **disposed of** with a direction to the respondents to consider the petitioner's representation dated 01.06.2024 and pass appropriate orders on its own merits and in accordance with law within a period of two weeks from the date of receipt of a copy of this order. It is made clear that this Court has not gone into the merits of the claim of the petitioner and it is open to the respondents to consider the same on its own merits. No costs.

19.06.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

TSG

To

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Rural Development and Panchayat Raj Department,
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R.N.MANJULA, J.

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