



W.P.(MD)Nos.20627, 20630, 20631 & 21020 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2024

CORAM

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)Nos.20627, 20630, 20631 & 21020 of 2018

and

**W.M.P.(MD)Nos.18380, 18381, 18386, 18387, 18388, 18389,
18828 & 18829 of 2018 and 2536, 2539, 2540 & 2541 of 2019**

S.Subburajan	: Petitioner in W.P.(MD)No.20627/2018
R.Ponraj	: Petitioner in W.P.(MD)No.20630/2018
S.Murugan	: Petitioner in W.P.(MD)No.20631/2018
M.Sandanamuthu	: Petitioner in W.P.(MD)No.21020/2018

Vs.

1.The Director of Municipal Administration,
Chepauk,
Chennai – 5.

2.The Director of Local Fund Audit,
Integrated Complex for Finance Department,
Animal Husbandry Hospital Complex,
Teynampet,
Chennai.

3.The Commissioner,
Virudhunagar Municipality,
Virudhunagar.

: Respondents in all Writ Petitions



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COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying for Writs of Certiorarified Mandamus, to call for the records in pursuant to the impugned orders issued by the third respondent in proceedings Na.Ka.No.C1/8745/2017 dated 27.08.2018 and quash the same and consequently direct the respondents to restore the original pay fixed as per G.O.Ms.No.338 Finance (Pay Cell) Department dated 26.08.2010 with all consequential service and monetary benefits.

For Petitioner : Ms.M.Padmavathy
For Respondents 1&2 : Mrs.D.Farjana Ghoushia
Special Government Pleader
For Respondent No.3 : Mr.M.Muthugeethayan
Standing Counsel
[In all Writ Petitions]

COMMON ORDER

These Writ Petitions have been filed challenging the similar recovery orders all dated 27.08.2018 issued by the third respondent calling upon the petitioners to pay the sums mentioned therein in installments, on the ground that erroneously the respondents have made excess payments to the respective petitioners.



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2.The respective petitioners are Turn Cocks, who fall under the category of Other Trade Posts employed by the third respondent Municipality. As per G.O.(Ms).No.338, Finance (Pay Cell) Department dated 26.08.2010, the petitioners are entitled for the revision of scale of pay + Grade Pay at Rs.5,200 – 20,200 + G.P. 1,900. However, erroneously, the respondents have fixed the revision of scale of pay + Grade Pay at Rs.5,200 – 20,200 + G.P. 2,400. In view of the excess payments made by the respondents, the respondents have passed the impugned orders seeking recovery of the excess payments made to the respective petitioners. All the respective petitioners have also given unconditional letters of undertaking to the respondents while their pay was revised earlier that, in case excess pay has been fixed erroneously, the same can be recovered.

3.All the aforesaid letters of undertakings were given in Rs.20/- non-judicial stamp papers.

4.The letters of undertaking given by the respective petitioners are also not disputed by the learned Counsel for the respective petitioners on instructions.



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5. Learned Standing Counsel for the respondent Municipality would also submit that the same has also been suppressed in the affidavit filed in support of these writ petitions. Since as per G.O.(Ms).No.338, Finance (Pay Cell) Department dated 26.08.2010, the petitioners are only entitled for fixation of their Grade Pay at Rs.5,200 – 20,200 + G.P.1,900, the payments made by the respondents to the respective petitioners at Rs.5,200 – 20,200 + G.P.2,400, is erroneous.

6. In view of the same, this Court does not find any infirmity in the impugned recovery orders issued by the respondents to the respective petitioners for recovery of the excess payments. It is also to be noted that separate letters of undertaking have also been given by the respective petitioners as stated supra in Rs.20/- non-judicial stamp papers to the respondents, undertaking to repay any excess payments made to them. Once an unconditional letter of undertaking is given and the same is not disputed by the petitioners, they are bound by the said undertaking.

7. This Court had an occasion to deal with a similar situation where an unconditional undertaking was given for



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repayment of the excess payments and this Court has held in its order dated 09.08.2024 passed in W.P.(MD)No.13122 of 2018 that once the payments made to the petitioner are found to be excess payments and when the petitioner has given an unconditional affidavit of undertaking to the respondents that he shall refund the money, in case in near future it is found to be excess payments, the question of stopping the respondents from recovering the excess payments made to the petitioner does not arise. All these petitioners stand on the same footing. Therefore, they are bound to repay the excess payments made to them as per the impugned orders.

8.In the result, for the foregoing reasons, this Court does not find any merit in these writ petitions. Accordingly, these Writ Petitions are liable to be dismissed. Mr.S.Subburajan and Mr.S.Murugan, the petitioners in W.P.(MD)Nos.20627 & 20631 of 2018, respectively retired from service only subsequent to the filing of their writ petitions and when the impugned orders were passed, they were very much in service and therefore, the ground raised by them in their respective writ petitions that having retired from service recovery order cannot be issued is unsustainable.



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9.Accordingly, these Writ Petitions are dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index :Yes / No
Internet : Yes / No
NCC : Yes/No
MR



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To

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ABDUL QUDDHOSE, J.

MR

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