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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2025

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THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.2554 of 2024

Mangaiyarkkarasi

.. Petitioner

Vs.

- 1.The Additional Chief Secretary,
Government of Tamil Nadu,
Finance (Local Fund) Department,
Fort St. George,
Chennai – 600 009.
- 2.The Joint Secretary,
Government of Tamil Nadu,
Finance (Local Fund) Department,
Fort St. George,
Chennai – 600 009.
- 3.The Director,
Government of Tamil Nadu,
Local Fund Audit Department,
4th Floor – Combined Finance Department Office Building,
Nandanam, Chennai – 600 035.
- 4.The Special Director,
Government of Tamil Nadu,
Local Fund Audit Department,
4th Floor – Combined Finance Department Office Building,
Nandanam, Chennai – 600 035.



5. The District Treasury Officer,
Office of the District Treasury,
Cuddalore.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent on the file of the 4th respondent relating to the impugned order dated 12.09.2023 bearing Na.Ka.No.33094/UU.NE.MU(1)/2016 and quash the same as illegal and arbitrary and consequently, direct the respondents to fix the pay of the petitioner as applicable to the post of Joint Director w.e.f. 21.06.2017 and to refix the pension and to disburse of the retirement benefits with arrears as applicable to the post of Joint Director.

For Petitioner .. Mr.N.U.Pressanna

For Respondents .. Mr.S.Yashwanth,
Additional Government Pleader

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records of the 4th respondent relating to an order dated 12.06.2023 and to quash the same. The petitioner requests that the pay of



the petitioner should be refixed as applicable to the post of Joint Director w.e.f. 21.06.2017 and to consequently redetermine the pension and disburse the retirement benefits together with arrears.

2.The order which the petitioner questions namely, the order dated 12.09.2023 is not an order affecting the service of the petitioner herein but actually a proposal forwarded to the Government relating to consideration of the petitioner to the post of Joint Director. It is the Government which has to take final decision regarding that particular issue. Even before the Government could take decision, the writ petition has been filed.

3.A counter affidavit had been filed, wherein it had been stated as follows:

16.It is humbly submitted that through the Government Letter No.4811 / Finance (Local Fund) Department / 2019 dated 11.05.2023, the further details was requested by the Government with regards to rectification of pay fixation of the petitioner. The queries of the Government were answered through the letter of the 4th respondent in Na.Ka.No.Uu.Ni.Mu (1)/33094/2016 dated 26.07.2023.



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17.It is humbly submitted that through the Government Letter No.4811/Finance (Local Fund) Department / 2019 dated 01.09.2023, the Government intimated that since a regular name panel was not issued for the post the Deputy Director for the year of 2014 – 2015, only after issuing the same and adding the name of the petitioner in it, the re-fixation of pay of the petitioner in the higher post could be considered. Through the 4th respondent's letter, Na.Ka.No.Uu.Ni.Mu(1)/33094/2016 dated 12.09.2023 the details intimated by the Government were communicated to the petitioner.

18.It is submitted that the petitioner has filed this writ petition requesting for quashing the letter mentioning it as an order whereas it is not an order per se but in fact was a mere communication sent to the petitioner intimating the details corresponded by the Government.

19.It is humbly submitted that the petitioner's request with regards to fixation of pay was not denied but was subjected to the condition of issuance of regular panel for the post of Deputy Directors for the year 2014-2015 and including the name of the petitioner in it.

4.It is thus seen that there has been no denial with respect to the fixation of the pay of the petitioner, but that, a regular panel will have to be



issued for the post of Deputy Director for the year 2014 – 2015 and in that particular panel, the name of the petitioner should be included and if it is included, the pay would be refixed and the retirement benefits would be accordingly readjusted.

5.Further in the counter affidavit, it had been stated as follows in paragraph Nos.23 and 24:

“23.It is submitted that it was only later on through the G.O.Ms.No.185/Finance (Local Fund) Department, dated 20.09.2016, the disciplinary proceedings were initiated against the petitioner resulting 17(b) Charges under the Tamil Nadu Civil Services Rules being dropped, and only after that the petitioner's name was included in the temporary Deputy Director panel and the petitioner was promoted as a Deputy Director.

24.It is humbly submitted that since the petitioner's name was later included in the temporary Deputy Director panel through the Government Letter No.47124/Finance (Local Fund) Department / 2016 dated 27.10.2016, and the name of the petitioner was placed in the seniority list of the temporary Deputy Directors at Sl.No.13A after Mr.K.Krishnan Deputy Director (Sl.No.13) and, before Mr.A.Meerakani, Deputy Director (Sl.No.14) and it was informed that the pay of



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the petitioner should be fixed on par with her junior in service Mr.A.Meerakani, Deputy Director under Fundamental Rules 27(17)."

6.It is thus seen that the name of the petitioner was actually included in the temporary Deputy Director panel and the petitioner had actually been promoted as Deputy Director, but the respondents had one difficulty namely, they had to amend the rules and in this regard. It had been further stated as follows in paragraph No.29 of the counter affidavit:

"29.It is humbly submitted that with regards the averments made in paragraph (9) of the affidavit, the fixation of pay of the petitioner in the higher posts could be made only after issuance of regular panel of Deputy Directors for the year of 2014 – 2015 and the petitioner's name was included in it as intimated by the Government. It is also intimated that service rules of Local Fund Audit Department and State Government Audit Department have to be amended as mentioned earlier. Only after the amendment of the service rules, regular panels for the posts of Deputy Directors and other higher posts could be issued."



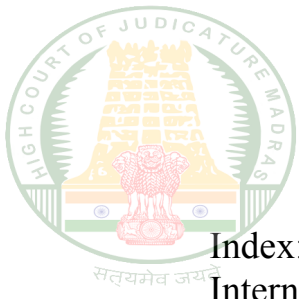
7.It is thus seen that there is a process which has to be followed namely, the amendment of the rules and then the approval of the name of the petitioner in the panel of Deputy Director for the year 2014- 2015 and thereafter, determination of the salary which has to be paid and further determination of the retirement benefits.

8.It is hoped that the respondents would apply their mind primarily to amend the service rules of the Local Audit Department and the State Government Audit Department. A direction is given to do the same as expeditiously as possible since the petitioner's name had been included in the temporary Deputy Director panel and examine whether the petitioner's pay could be refixed atleast on the record and thereafter, monetary benefits could be disbursed to the petitioner. Confirming the name of the petitioner in the temporary panel for the year 2014 – 2015 may be brought into record within a period of three months from the date of receipt of a copy of this order.

With the above reasonings, this Writ Petition stands disposed of. No costs.

18.02.2025

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Index: Yes/No

Internet: Yes/No

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C.V.KARTHIKEYAN,J.

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