



W.P.(MD)No.5997 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.04.2025

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.5997 of 2023
and WMP(MD)No.22918 of 2023

P.Jeyanthakumar

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by the Commissioner Municipal Administration,
Fort St. George, Chennai-600009.

2. The Director of Local Fund Audit,
O/o. the Local Fund Audit,
Combined Finance Department,
Complex Building, 4th Floor,
Nandanam, Chennai-600035.

3. The Assistant Director
O/o. the Local Fund Audit,
Combined Finance Department,
Complex Building, 4th Floor,
Nandanam, Chennai-600035.

4. The Commissioner of Town Panchayat,
75, Santhome High Road,
Aariyapuram, Chennai.

5. The Executive Officer,
North Valliyoor Town Panchayat,
Tirunelveli District.



W.P.(MD)No.5997 of 2023

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent resulting in 3rd Respondents impugned order dated 18.05.2018 passed in Moo.Mu.No.34823/Pe.O.Sa(2)2018 and consequential recovery of the amount of Rs.1,85,878/- order dated 08.02.2019 passed in Ni.Mu.No.672/Pe.O.Sa(1) 2019 by fixing the scale of pay as Rs.1650/- instead of Rs.1,900/- and the same is confined in the proceedings of the 2nd Respondent dated 25.06.2021 passed in Moo.Mu. No.10159/Pe.O.Sa(2) 2021 and quash the same and direction directing the Respondents to refund the recovered amount of Rs. 1,85,878/- to the petitioner and directing the respondents to fix the grade pay of Rs.1,900/- instead of Rs.1,650/- and continue to pay the same and also to take grade pay of Rs.1,900/- with effect from 01.01.2006 for stepping up of pay of selection grade or special grade and pay the revised scale of pension with all attendant backwages and arrears of last grade pay.

For Petitioner : Mr.V.R.Venkatesan

For Respondents : Mr.D.Sasikumar

Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the reversion of pay band and recovery orders passed by the Town Panchayat.

2. Heard both sides and perused the records.

3. The learned counsel for the petitioner submitted that the impugned order of recovery effected against the petitioner is violative of the proceedings of the second respondent and recovering huge amount from the retirement benefits as well as the revised scale of pay are bad in law. He would submit that



W.P.(MD)No.5997 of 2023

while dealing with the similar issue, the Principal Bench of this Court passed a

common order **dated 22.11.2023 in WP.Nos.1828 of 2021 and batch**, wherein

the proceedings of Director of Town Panchayat in withdrawing the previous clarification which permitted the additional pay hike by applying G.O.Ms.No. 338, Finance (PC) Department dated 26.08.2010 is also challenged. The relevant portion of the said order is extracted herein under:

"14. Once a policy decision has been taken and it has been approved by way of issuing a Government Order, the same cannot be withdrawn by an administrative circular or proceedings especially to recover any monetary benefit which was granted already. The monetary benefit already granted is like 'consumed bread'. So it is always better to think twice before giving the bread for consumption than to ask for vomiting it afterwards. Even for any extraneous reasons, if the Government thinks fit to withdraw any benefit that can be done only by issuing a fresh Government Order and not by way of issuing any administrative orders or circulars.

15. In view of the above stated reasons, these Writ Petitions are allowed and the proceedings dated 27.03.2019 issued vide Na.Ka.No. 14759/2012/A10, dated 18.12.2019 issued vide Na.Ka.No. 5503/2018/Pa4 and dated 31.12.2019 issued vide Na.Ka.No. 300/2019/A1 by the respondents 1 to 3 respectively are quashed and consequently the respondents 1 to 3 are directed to restore the original pay scale as fixed vide G.O.Ms.No.338 Finance (Pay Cell)



W.P.(MD)No.5997 of 2023

Department dated 26.08.2010 from the date of their respective eligibility"

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4. This Court is of the opinion that the order stated supra is squarely applicable to the present case.

5. Following the same, this writ petition is allowed with the following directions:

i) The impugned order dated 18.05.2018 and consequential recovery order dated 08.02.2019 are quashed;

ii) The respondents are directed to refund the recovered amount of Rs.1,85,878/- to the petitioner and to restore the original pay scale as fixed vide G.O.Ms.No.338 Finance (Pay Cell) Department dated 26.08.2010 from the date of his eligibility.

There shall be no order as to costs.

Consequently, connected miscellaneous petition is closed.

04.04.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
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W.P.(MD)No.5997 of 2023

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W.P.(MD)No.5997 of 2023

BATTU DEVANAND, J.

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W.P.(MD)No.5997 of 2023
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