

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.A.No.1325 of 2015

and

M.P.No.1 of 2015

1. Government of Tamil Nadu,
rep by its Secretary to Government,
Environment & Forest Department,
Fort St. George,
Chennai-600 009.
2. The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet, Chennai-600 015.
3. The Director /Chief Conservator of Forests,
Arignar Anna Zoological Park,
Vandalur, Chennai-600 048.
4. The Deputy Director,
Arignar Anna Zoological Park,
Vandalur, Chennai-600 048.Appellants/Respondents

Vs.

N.Karuppusami

सत्यमेव जयते

...Respondent/Petitioner

This writ appeal is preferred under Clause 15 of Letters Patent against the order dated 11.06.2014 passed in W.P.No.24277 of 2006.

Writ Petition filed under Article 226 of the Constitution of India, praying for a issuance of Writ of Certiorarified Mandamus to call for the records relating to (i)Government Lr.No.24059/FR.5/03-05 Environment and Forests Department dated 30.11.2005 of the first respondent (2)G.O.Ms.No.200 Environment and Forests (FR.5) Department

dated 21.10.2002 of the first respondent (3)G.O (D) No.326 Environment and Forests (FR6) Department dated 21.10.2002 of the first respondent and (4)Pro.Na.Pa/6574/92 dated 18.8.1995 of the third respondent herein, quash the first order dated 30.11.2005 in full and the orders dated 21.10.2002 (2) and (3)above of the first respondent and that of the third respondent dated 18.8.1995 to the limited extent of fixation of pay to the petitioner in the post of plumber and the effective dates therefor and issue consequential directions to the respondents to refix the pay of the petitioner in the scale of pay of Rs.825-15-900-20-1200 with effect from 3.8.1995 in the scale of Rs.3050-75-3950-80-4950 with effect from 1.1.1996 and to disburse the arrears of the resultant monetary benefits with 18% interest per annum within a time schedule.

For Appellants : Mr.N.Sakthivel, GA

For Respondent : Mr.M.Ravi

JUDGMENT

(The Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant appeal arises from the order dated 11th June, 2014 passed in W.P.No.24277 of 2006.

2 The writ petitioner / respondent herein, working as Plumber in the Arignar Anna Zoological Park, Vandalur, Chennai, approached this Court, questioning the correctness of the orders dated 30th November, 2005 passed by the first appellant herein in its entirety and the Government orders in G.O.Ms.Nos.200 and 326, Environment and Forests Department dated 21st October, 2002 passed by the first appellant and also the proceedings dated 18th August, 1995 of the third appellant herein to the limited extent of fixation of pay to the writ petitioner in the post of Plumber and the effective dates therefor and seeking to issue consequential directions to the respondents therein to refix the pay of the writ petitioner in the scale of pay of Rs.825-15-900-20-1200 with effect from 3rd August, 1995 and in the scale of Rs.3050-75-3950-80-4950 with effect from 1st January, 1996 and to disburse the arrears of resultant monetary benefits with 18% interest per annum.

3 The case of the writ petitioner / respondent is that the petitioner, while working as Plumber on daily wage at Arignar Anna Zoological Park, Vandalur, Chennai from 20th August, 1981, was regularized in service by order dated 18th August, 1995 on pay scale

of Rs.750-12-870-15-945 with effect from 3rd August, 1995. The pay for the post of Plumber was Rs.825-15-900-20-1200 under G.O.Ms.No.240, Environment and Forests Department dated 19th April, 1990. It was also stated that under G.O.Ms.No.200, Environment and Forests Department dated 21st October, 2002, the plumber, having minimum general educational qualification and ITI certificate in the respective trade and the pay scale of Rs.825-15-900-20-1200 was granted revised pay scale of Rs.2750-70-3800-75-4400 and that the pay scale of Rs.750-12-870-15-945 was revised as Rs.2550-55-2660-60-3200 with effect from 1st January, 1996. Under G.O.Ms.No.326, Environment and Forests Department dated 21st October, 2002, the pay scale was further revised to Rs.3050-4950. The writ petitioner's pay scale was revised by order dated 13th August, 2003 of the Deputy Director of Arignar Anna Zoological Park, Vandalur to the pay scale of Rs.2550-3200 from 1st July, 1996 and Rs.3050-4950 from 21st October, 2002 and also directed recovery of excess pay and allowances made to him on the basis of the aforesaid revision of pay. It is also the case of the writ petitioner that the other similarly situated employee, i.e., one Devaraj, who had also joined as Plumber on daily wage in the same time, was given all benefits. Thus, the instant writ petition.

4 The learned Single Judge, considering all aspects of the matter, held as under :

"5.Regarding fixation of pay is concerned, the scale of pay for the post of Plumber is fixed as Rs.825-15-900-20-1200 as per G.O.Ms.No.240 Environment and Forests Department dated 19.4.1990 and the same is revised as Rs.2750-70-3800-75-4400 with effect from 1.1.1996, as per G.O.Ms.No.200 Environment and Forests Department dated 21.10.2002. Subsequently, the scale of pay of the post of Plumber is, by G.O (D) No.326 Environment and Forests Department dated 21.10.2002, revised as Rs.3050-75-3950-80-459 with effect from the date of issue of the order. The combined appreciation of the G.Os as referred to above would support the claim of the petitioner that he is entitled to the benefit of first G.O. from the date of his appointment and the benefit of third G.O. with effect from 1.1.1996. Whereas, the Government Order dated 13.8.2003 came to be passed, thereby denying the benefit of pay fixation with correct due date for the petitioner. As per G.Os, pay fixation is to be given effect from further date and such pay anomaly, as rightly argued by the learned counsel for the petitioner, is against the interest of the petitioner. That is why, the petitioner

is before this court for regularisation of his pay. This court finds greater force in the contention so raised on the petitioner side. The learned Government Advocate appearing for the respondents has also not raised any serious objection against the case put forth by the petitioner. In view of the above stated position, this court is inclined to direct the respondents to pass appropriate orders in respect of re-fixation of pay of the petitioner in the correct time scale of pay."

The writ petition was ordered accordingly. Thus, this appeal.

5 Mr.N.Sakthivel, learned Government Advocate, appearing for the appellants questioned the correctness of the impugned order rendered by the learned Single Judge, principally on the ground that there was a delay of 10 years in approaching the court. Secondly, the writ petitioner / respondent herein had accepted the pay scale of Rs.750-12-870-15-945 way back in August, 1995. The subsequent revision was prospective in nature and as such, the writ petitioner was not entitled to the same benefits. It is also contended that the State has decided to initiate proceedings of recovery from Devaraj also.

6 We have considered the submissions of the learned counsel for the appellants, perused the pleadings placed before the writ court and also the relevant Government Orders.

7 On bare perusal of the G.O.Ms.No.535, Finance (Pay Cell) Department dated 1st August, 1992, which is immediately preceding to the date of regularization, i.e., August, 1995, the pay scale of plumber was revised from Rs.825-1200, which was existing thereon to Rs.950-1500. The other pay scale of plumber in the Forest department from Rs.555-970 was revised to Rs.950-1500. This G.O was not considered and it appears, it was not placed before the learned Single Judge. As per the other G.O.Ms.No.240, dated 19th April, 1990, the scale of pay was indicated as Rs.825-15-900-20-1200. Strangely, G.O.Ms.No.254 dated 3rd August, 1995 of the Forests Department was produced, wherein the pay scale was indicated as Rs.750-12-870-15-945. There is no explanation for this variation from one G.O to the other G.O. It seems, on the basis of the said G.O., the pay scale of the writ petitioner was fixed vide order dated 18th August, 1995 at Rs.750-12-870-15-945. There is no much dispute in respect of the subsequent revision as the scale of Rs.825-15-900-20-1200 was revised to Rs.2750-70-3800-75-4400 and subsequently, it was revised to Rs.3050-75-3950-80-4590.

8 We have also come across one Government order of the Forests Department in G.O.Ms.No.23, dated 25th January, 1999, wherein the pay scale granted to one Rajendran was Rs.2550-55-2660-60-3200. Subsequently, as aforesaid, the pay scale of the plumber was revised to Rs.3050-75-3950-80-4950 under G.O.Ms.No.200 dated 21st October, 2002 and the same pay scale of pay was reiterated with little modification under G.O(D)No.326 dated 21st October, 2002 as Rs.3050-75-3950-80-4590.

9 The above narrated facts derived from the several government orders referred to herein-above confound the dispute, leading to the conclusion that the State- appellants have not taken a categorical and clear stand, as it varied from person to person. In that view of the matter, the issue of delay in filing the writ petition may not be held as a substantive issue to reject the genuine claim of the writ petitioner, which was recognised and granted by the learned Single Judge.

10 Resultantly, we do not find any error, illegality or impropriety in the order sought to be impugned in this appeal, warranting interference.

11 As a sequel, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Secretary to Government,
Government of Tamil Nadu,
Environment & Forest Department,
Fort St. George,
Chennai-600 009.

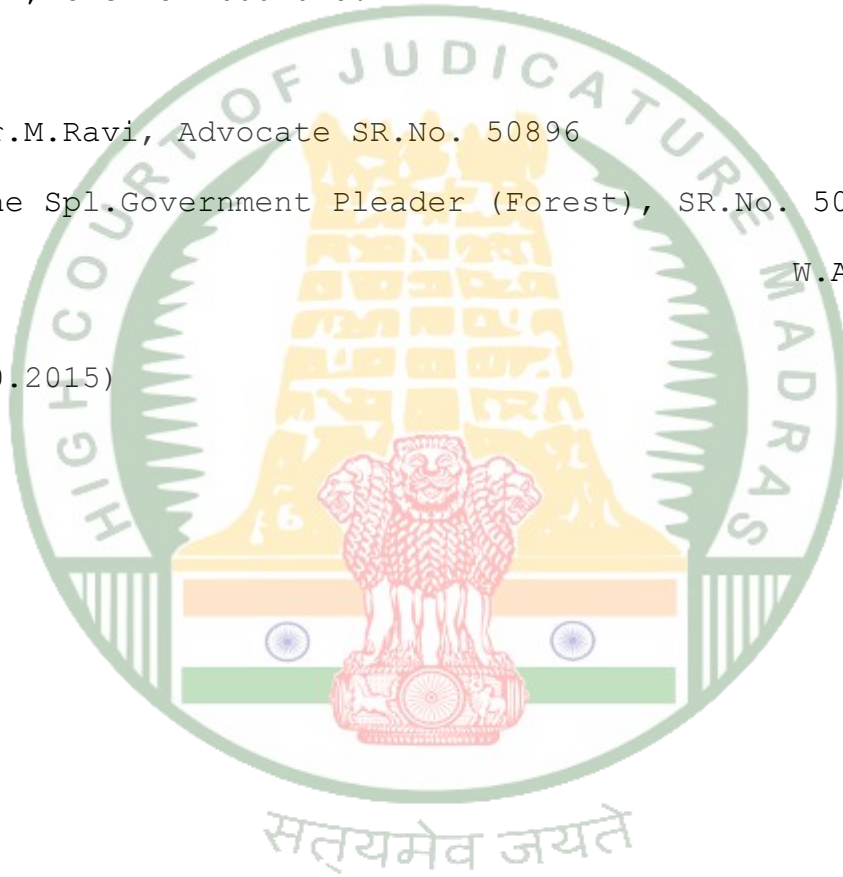
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4. The Deputy Director,
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Vandalur, Chennai-600 048.

1 CC to Mr.M.Ravi, Advocate SR.No. 50896

1 CC to the Spl.Government Pleader (Forest), SR.No. 50865

W.A.No.1325 of 2015

TEJ (CO)
PSI (05.10.2015)



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