

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 3.9.2015.

CORAM

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE T.MATHIVANAN

W.A.Nos.1719 to 1721 of 2013
and
M.P.Nos.1 of 2013

The Block Development Officer,
Block Panchayat (BP),
Arcot, Vellore District. ...Appellant in W.A.No.1719/13

The Block Development Officer,
Block Panchayat (BP),
Madhanur, Vellore District. ...Appellant in W.A.No.1720/13

The Block Development Officer,
Block Panchayat (BP),
Nemili, Vellore District. ...Appellant in W.A.No.1721/13

Vs.

S.Jagadesan ... R1 in W.A.No.1719 of 2013
S.K.Lakshmanan ... R1 in W.A.No.1720 of 2013
S.Srinivasan ... R1 in W.A.No.1721 of 2013

2. The District Collector,
Vellore.

3. The District Treasury Officer,
Vellore District.

4. The Principal Secretary to Government,
Finance (Pay Cell) Department,
Secretariat, Chennai 600 009.
(R4 impleaded as party respondent
vide order dated 2.9.2014 made
in M.P.Nos.1 of 2014)

... Respondents2 to
4 in all Appeals

Writ Appeals against the order dated 22.1.2013 passed in W.P.Nos.133, 136 and 138 of 2012.

W.P.Nos.133, 136 and 138 of 2012 : Petitions filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, directing the respondents herein to fix the selection grade of pay as indicated in Letter No.63305/Pay Cell/2010-1 dated 08.11.2010 issued by Principal Secretary to Government Finance (PC) Department and G.O.Ms.No.65, Finance (Pay Cell) Department, dated 26.02.2011 and consequently directed to pay at the rate of 9300-34800+4200 to the petitioner herein with monetary benefits and all arrears within a stipulated time.

For appellants &
RR 2 to 4 : Mr.A.L.Somayajee, Advocate General
assisted by Mrs.M.E.Rani Selvam, AGP

For R1 in all WPs. : Mr.L.Chandrakumar for
Mr.R.Nalliyappan

COMMON JUDGMENT

(Judgment of the Court was delivered by V.RAMASUBRAMANIAN, J.)

These appeals arise out of an order passed by a learned Judge in a batch of writ petitions filed by persons working as drivers in various Local Bodies, seeking the grant of selection grade scale of pay as per G.O.Ms.No.65 Finance (Pay Cell) Department dated 26.2.2011 in the scale of pay of Rs.9300-34800 + 4200.

2. Heard Mr.A.L.Somayajee, learned Advocate General appearing for the appellants and Mr.L.Chandrakumar, learned counsel appearing for the respective first respondent.

3. The respective first respondent in all the writ appeals, were appointed as drivers during the period from 1991 to 2001. Upon completion of ten years of service, they are entitled to move over to the selection grade of the post. Upon completion of twenty years of service, they are entitled to move over to the special grade.

4. Under G.O.Ms.No.65 Finance Department dated 26.2.2011, the Government acceded to the request of the Tamil Nadu Drivers' Association for extending the benefit as granted to Junior Assistants. In other words, by the said Government Order, the Government took note of the fact that drivers as well as Junior Assistants were drawing same scale of pay earlier and that therefore,

the benefit of fixation of pay as given to them should also be given to drivers with effect from 1.1.2006. But, the monetary benefits were restricted from 1.4.2011.

5. The respondents herein came up with writ petitions seeking a mandamus to direct the appellants herein to fix the selection grade scale of pay in accordance with the said Government Order, but, at the rate of Rs.9300-43800/- + 4200/-. The writ petitions were allowed by a learned Judge by an order dated 22.1.2013, based upon another Government Order in G.O.Ms.No.234 Finance Department dated 1.6.2009. It was in that Government Order, the ordinary grade scale of pay was revised from Rs.5200-20,200 to Rs.9300-34,800. Aggrieved by the said order of the learned Judge, the State has come up with the above appeals.

6. The main contention of the learned Advocate General appearing for the appellants is that at the time when G.O.Ms.No.234 dated 1.6.2009 was passed, none of the respondents herein (writ petitioners) had completed ten years of service, to be eligible for the grant of selection grade. If they were not eligible for the grant of selection grade, the question of eligibility for the grant of special grade would not have arisen. Therefore, the sum and substance of the contention of the learned Advocate General is that a benefit extended by a Government Order to persons who had moved over to the selection grade and special grade on a particular date, cannot be claimed by persons who were not even in that grade on that date.

7. A careful perusal of the order of the learned Judge and the affidavits filed by the petitioners in the writ petitions would show that they could not have completed ten years of service on the date on which G.O.Ms.No.234 Finance Department dated 1.6.2009 was passed. Therefore, their claim, which was allowed by the learned Judge on the basis of G.O. Ms.No.234 Finance Department dated 1.6.2009, cannot be correct.

8. Further, in respect of persons, who had moved over to the selection grade and special grade after the issue of G.O.Ms.No.234 Finance Department dated 1.6.2009, the Government had granted benefit under G.O.Ms.No.237 Finance Department dated 22.7.2013. The operative portion of this order at para 3 and 4 reads as follows:

"3) After careful examination, the Government has decided to implement the above recommendation of the Pay Grievance Redressal Cell. Accordingly, Government direct that an additional increment benefit (over and above the existing one increment

benefit) equivalent to 3% + 3% of basic pay (Pay + Grade Pay) shall be granted to the employees on award of Selection Grade/Special Grade in the revised scales of pay implemented w.e.f. 01.01.2006.

4) The above orders shall take notional effect from 01.01.2006 with monetary benefit from 01.04.2013."

9. It is stated by the learned Advocate General that the writ petitioners are entitled to the benefit of G.O.Ms.No.237 dated 22.7.2013. In view of the above, the writ appeals are allowed. The order of the learned Judge is modified to the effect that the writ petitioners, viz., the respective first respondent herein, are entitled to the benefit of para 3 and 4 of G.O.Ms.No.237 Finance Department dated 22.7.2013. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

ssk.
To

Sub Assistant Registrar

1. The District Collector,
Vellore.
2. The District Treasury Officer,
Vellore District.
3. The Principal Secretary to Government,
Finance (Pay Cell) Department,
Secretariat, Chennai 600 009.
4. The Block Development Officer,
Block Panchayat (B.P),
Arcot, Vellore.

+1cc to Mr.R.Nalliyappan, Advocate, S.R.No.47676

+1cc to Mr.M.E.Rani Selvam, Advocate, S.R.No.47559

+1cc to the Government Pleader, S.R.No.47584

W.A.Nos.1719 to 1721 of 2013

GP(CO)
CA(01/10/2015)