

In the High Court of Judicature at Madras

Dated: 14.10.2015

Coram

The Honourable Mr.JUSTICE M.SATHYANARAYANAN

Writ Petition No.32751 of 2015

A.G.Narasimhan

.... Petitioner

Vs.

The Principal Secretary to Government,
Finance (Pay Cell) Department,
Secretariat, Chennai - 600 009.

..... Respondent

PETITION under Article 226 of The Constitution of India praying for issuance of Writ of Mandamus directing the respondent to extend the benefits of G.O.Ms.No.340, Finance (Pay Cell) Department, dated 26.08.2010 to the petitioner and consequential monetary benefits in the light of his representation dated 28.05.2015.and pass order therein with in a time frame

For Petitioner : Mr.K.Govindaraj

For Respondent : Mr.V.Subbiah, SPL.G.P.

O R D E R

By consent, the Writ Petition is taken up for final disposal.

2. The petitioner would state that in the year 2003, the Government Employees of Tamil Nadu went on a general strike and in order to tide over the crisis, the Government has appointed 11,000 Junior Assistants on contract basis on a consolidated monthly pay of Rs.4,000/-. The petitioner was one such person. He got appointment as Junior Assistant on 11.07.2003 on contract basis and joined duty on 11.07.2003. After the strike was over, the petitioner and others, who were appointed on contract basis, were allowed to continue in service. In the year 2006, the Government took a policy decision to absorb such persons appointed on contract basis by conducting special qualifying test through the Tamil Nadu Public Service Commission. The petitioner was selected for regular appointment as Junior Assistant and he was allotted to Public Works Department,

Building Construction Division - 1. He joined duty on 06.09.2011 and got promotion as Assistant.

3. The grievance now expressed by the petitioner is that in terms of G.O.Ms.No.340, Finance (Pay Cell) Department, dated 26.08.2010, the following benefits has been conferred, which are as follows:

"4. The Government has carefully examined the above recommendations of the One Man Commission and decided to rectify the anomaly as pointed out by the One Man Commission. Accordingly, Government direct that in exercise of the powers conferred under Rule - 13 of the Tamil Nadu Revised Scales of Pay Rules, 2009 relax the Rule - 9 of the Tamil Nadu Revised Scales of Pay Rules, 2009 in favour of the incumbents recruited as Junior Assistants from among the Contract Assistants/Agricultural Officers and any other similar categories of posts recruited by the Tamil Nadu Public Service Commission in the same batch prior to 1.6.2009 and joined/appointed on a subsequent date on or after 1.6.2009 due to administrative reasons duly allowing the fitment benefit to the individual employees concerned as a special case. However, Government direct that the above fixation benefit shall be given notional effect from the date of appointment of the individual employees concerned with monetary benefit from 1.8.2010.

5) Based on the above general orders, the Heads of Departments/Pay fixing authorities concerned are requested to re-fix the pay of the individual employees concerned by issuing separate Office Proceedings in this regard immediately.

6) The above orders allowing fitment benefit is not applicable to the new recruits in whose cases the selection list have been issued by the Tamil Nadu Public Service Commission/Employment Exchanges and consequent appointment orders issued by the Heads of Departments after 1.6.2009, i.e., after the date of issue of notification of the Tamil Nadu Revised Scales of Pay Rules, 2009 in the G.O.first read above. In such cases, the new recruits are entitled to have their pay fixed only at the minimum of the Pay Bank plus Grade Pay applicable to the respective posts."

4. In this regard, the petitioner has submitted a representation dated 28.05.2015 to the respondent praying for conferment of above said benefits. Since no orders have been passed, he came forward to file this Writ Petition.

5. Heard the submissions of the learned counsel appearing for the petitioner and Mr.V.Subbiah, learned Special Government Pleader, who accepts notice on behalf of the respondent.

6. Though the petitioner has prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in the representation or in this Writ Petition, directs the respondent to consider the representation of the petitioner dated 28.05.2015 on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

The Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar
True Copy
Sub Assistant Registrar

To

The Principal Secretary to Government,
Finance (Pay Cell) Department,
Secretariat, Chennai - 600 009.

+1 cc to the Government Pleader (sr.57122)

gr(co)
cp 29/10/2015

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