

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.06.2015

CORAM

The Hon'ble Mr. Justice T.S. SIVAGNANAM

W.P. No.5192 of 2015

R.Murugesan

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep., by its Principal Secretary to Govt.,
Finance (PC) Department,
Secretariat, Chennai - 600 009.
2. The Pay and Accounts Officer,
Secretariat,
Chennai - 600 009.

... Respondents

Prayer:-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records relating to the first respondent's Government Letter No.63305/Pay Cell/2010-1, dated 08.11.2010, to quash paragraph-5, therein insofar as it restricts the re-fixation of the pay to the level of first/second level promotion posts only, and to consequently direct the respondents to extend appropriate revised scales of pay of Selection Grade/Special Grade Driver to the petitioner forthwith on the basis of the VI Pay Scale Recommendations (Revised Pay Rules) as ordered in G.O.Ms.No.162, Finance (Pay Cell Department), dated 13.04.1998, and other benefits thereto and to pass such other further or other orders.

For Petitioner : Mr.P.Chandrasekar

For Respondents : Mr.R.Lakshmi Narayanan AGP for RR1&2

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O R D E R

Heard the learned counsels appearing on either side and perused the materials placed on record. By consent of the learned counsels on either side, the writ petition is taken up for final disposal.

2. The prayer in the Writ Petition is for issuance of a Writ of Certiorarified Mandamus to quash the paragraph 5 of the Letter No.63305/Pay Cell/2010-1, dated 08.11.2010, insofar as it restricts the re-fixation of the pay to the level of first/second level promotion posts only, and consequently to direct the respondents to extend appropriate revised scales of pay of Selection Grade/Special Grade Driver to the petitioner forthwith on the basis of the VI Pay Scale Recommendations (Revised Pay Rules) as ordered in G.O.Ms.No.162, Finance (Pay Cell Department), dated 13.04.1998, and other benefits thereto and to pass such other further or other orders.

3. The learned counsel appearing for the petitioner submitted that the relief sought for by the petitioner is squarely covered by the various decisions of the Hon'ble Division Bench as well as the learned Single Judges and some of which have been confirmed by the Hon'ble Supreme Court. In this regard, reference has been made to the orders passed by this Court in W.P.No.20250 of 2010 [D.Duraikanu vs. The State of Tamil Nadu], dated 19.01.2011, wherein some what is a similar relief was sought for, though the prayer sought for in the said Writ Petition was in the nature of a Writ of Mandamus. The Writ Petition was allowed by order dated 19.01.2011, as against which the respondents preferred appeal before the Hon'ble Division Bench in W.A.No.67 of 2012 and the Division Bench by order dated 18.01.2012, dismissed the Writ Appeal and I was a party to the said order. Subsequently, the respondents preferred Special Leave Petition before the Hon'ble Supreme Court in Special Leave to Appeal (Civil) CC.No.14715 of 2012, which was dismissed by the Hon'ble Supreme Court by order dated 10.09.2012. In yet another batch of cases in W.P.Nos.22640 of 2012 etc., batch, a similar relief was sought for and the learned Single Judge of this Court following another set of Writ Petitions in W.P.Nos.4288 of 2008 etc batch, allowed the Writ Petition, by order dated 17.09.2012. As against which the Government preferred Appeals in W.A.Nos.383 to 391 of 2009, which were dismissed by the Hon'ble Division Bench by common judgment dated 01.09.2009. The State also preferred Special Leave to Appeal No.35969 of 2009, against the order in W.A.No.383 of 2009, which was dismissed by the Hon'ble Supreme Court by order dated 25.02.2015. Further, the learned Single Judge has referred to the order passed by the Madurai

Bench of this Court in W.P.(MD)Nos.10594, 10596 & 10597 of 2010, and the Writ Appeals filed against the said order, dismissed by the Hon'ble Division Bench of the Madurai Bench of this Court by judgment dated 14.02.2011. Further, the Hon'ble Division Bench in a recent decision dated 05.01.2015, in W.P.No.2363 of 2013, considered a similar issue, wherein the prayer sought for was identical to that of the prayer sought for by the petitioner in this Writ Petition and the Hon'ble Division Bench by judgment dated 05.01.2015, was pleased to allow the Writ Petition. The operative portion of the order reads as follows:-

In the result, the writ petition is allowed and paragraph 5 of the Government Letter No.63305/Pay Cell/2010-1, dated 08.11.2010 is quashed insofar as it restricts the re-fixation of the pay applicable to the scale of first and second level promotion posts only and the petitioners are held to be entitled to the benefits of G.O.Ms.No.162, Finance (Pay Cell) Department, dated 13.04.1998. To be more precise the petitioners shall be entitled to fixation of their pay in the pay scale of Rs.5,000-150-8000 from the date of their movement to the selection grade and in the pay scale of Rs.5500-175-9000 from the date of their movement to the special grade. The order of the court shall be implemented within a period of six weeks from the date of receipt of a copy of this order. No costs.

4. The petitioner sought for a similar benefit by relying upon the decision in W.P.No.2363 of 2013, which was implemented by the Government vide G.O.Ms.No.257, dated 21.10.2014. However, the petitioner has not been extended the benefit, which prompted the petitioner to approach this Court, by filing the writ petition.

5. The learned counsel appearing for the petitioner submitted that the petitioner is also similarly placed person as that of the other Writ Petitioners and he should not be denied the benefit merely on account of the fact, he has approached this Court only now.

6. Heard the learned Additional Government Pleader appearing for the respondents on the above submissions.

7. It is to be noted that the Hon'ble Division Bench while passing the order dated 05.01.2015, has allowed the Writ Petition and quashed that portion of the Government letter dated 08.11.2010, insofar it restricts re-fixation of pay applicable to the scales of the first and second level promotions post only and the petitioners therein were held to be entitled to the benefit of G.O.Ms.No.162,

Finance Department, dated 13.04.1998. Thus, the benefit granted by the Hon'ble Division Bench has not been restricted to the one set of people, but that portion of the Government letter has been quashed. Therefore, the petitioner is also entitled for the similar relief.

8. Accordingly, following the earlier decisions as pointed out above, the Writ Petition is allowed and the petitioner shall be entitled to the re-fixation of his pay scale of Rs.5000-150-8000 from the date of their movement to the special grade and in the pay scale of Rs.5500-175-9000, from the date of their movement to the special grade, as granted by the Hon'ble Division Bench, since it is stated that the petitioner is also similarly placed person as that of the petitioners in W.P.No.2363 of 2013. The above directions shall be implemented as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

pbn

To

1. The Principal Secretary,
The State of Tamil Nadu,
Finance (PC) Department,
Secretariat, Chennai - 600 009.
2. The Pay and Accounts Officer,
Secretariat,
Chennai - 600 009.

+2cc's to Mr.P.Chandrasekar, Advocate, S.R.No.28594

KU(CO)
CA(17/06/2015)

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