

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 14.11.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.NO.734 OF 2015

Tamil Nadu Judicial Ministerial
Officers' Association,
rep. By its General Secretary T.Senthil Kumar
1st Street, Ashok Annexe
Narasothipatti, Salem - 7. ... Petitioner

- Vs -

1. State of Tamil Nadu
rep. By its Secretary
Home Department
Fort St. George, Secretariat
Chennai 600 009.
2. The Registrar General
High Court of Madras
Chennai 600 104. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order in Letter No.66633/Cts.V/2014-1 dated 30.10.2014 on the file of the 1st respondent and quash the same and consequently direct the respondents to fix equal scale of pay for Xerox operator working in Tamil Nadu Judicial Ministerial Service on par with Junior Assistant, Typist, Copyist, Examiner, Reader and Senior Bailiff with effect from the date of re-fixation of scale of pay as per the 5th Tamil Nadu Pay Commission Report implemented by the State Government vide G.O. Ms. No.666, Finance (Pay Commission) dated 27.6.1989, i.e., w.e.f. 01.06.1988.

For Petitioner : Mr. R.Neelakandan

For Respondents : Mr. P.S.Sivashanmuga Sundaram
Special Government Pleader for R-1

Mr. V.Ayyadurai, SC for R-2

ORDER

(DELIVERED BY HULUVADI G.RAMESH, J.)

The State Government, vide G.O. Ms. No.666, Finance (Pay Commission) dated 27.6.1989 directed fixation of new pay scales as per the 5th Tamil Nadu Pay Commission Report to the State Government employees, which benefit was also extended to the employees of the Tamil Nadu Judicial Ministerial Service, w.e.f. 1.6.1988.

2. Subsequent to the issuance of the abovesaid Government Order, the petitioner Association, representing the ministerial staffs working in the District & Sessions Court, Chief Judicial Magistrate Courts, City Civil Courts, Court of Small Causes and Metropolitan Magistrate Courts and all other Subordinate Courts, throughout the State of Tamil Nadu, on behalf of its members, who are working as Xerox Operators, submitted a representation dated 4.2.2013, to the respondents requesting to consider fixation of scale of pay of the Xerox Operators on par with that of Junior Assistant, Typist, Examiner, Copyist, Reader and Senior Bailiff w.e.f 1.6.1988, taking into account the nature of work and the responsibilities attached to the post of Xerox Operators and further on the ground that the educational qualification prescribed for Xerox Operators are identical to that of the above cadres. Further, it was also submitted that since the number of posts was negligible throughout the State, the revision of scale of pay of Xerox Operators on par with that of Junior Assistant, Typist, Examiner, Copyist, Reader and Senior Bailiff would not cause any substantial loss to the exchequer.

3. Since no order was passed on the said representation filed by the petitioner, W.P. No.9742/2013 was filed for a mandamus and this Court, vide order dated 31.7.2014, directed the respondents to consider the representation filed by the petitioner on its own merits and pass orders thereon as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of the order, with liberty to the petitioner to file fresh representation, if so advised.

4. It is further submitted by the petitioner that they submitted a fresh representation as well on 23.09.2014. However, without considering the merits of the petitioner's contention, the 1st respondent rejected the bona fide request of the petitioner vide the impugned order. Therefore, left with no other alternative, the petitioner has once again come before this Court by filing the present writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record as also the documents placed by the learned counsel for the respondents.

6. It is the contention of the learned counsel appearing for the petitioner that the educational qualification for the post of Xerox Operators is identical to that of Junior Assistant, Typist, Examiner, Copyist, Reader and Senior Bailiff and that the nature of duties and responsibilities discharged by the Xerox Operators are also quantitatively high, these aspects have not been considered by the respondents while rejecting the representation.

7. Learned counsel appearing for the 2nd respondent placed before the Court the minutes of the Hon'ble Committee headed by the Acting Chief Justice, wherein a decision has been taken on the representation submitted by the petitioners. A perusal of the report reveals that the Committee has unanimously resolved to reject the representation of the petitioner Association by a reasoned resolution. The Committee, on a careful consideration has opined that the educational qualification, though being one and same for all the posts, however, the nature and responsibility of the work cannot be equated with one another. The Committee has further opined that commonality of the educational qualification alone cannot be the sole criteria for fixing similar pay scale. The Committee has also further noted that there being further promotional opportunity for the Xerox Operators, as is evident from G.O. Ms. No.963, dated 28.4.1988 coupled with the letter of the High Court's Registry dated 6.9.1993, the representation submitted by the petitioner was rejected.

8. Though it is the contention of the learned counsel for the petitioner that the educational qualification being the same for all the posts, adoption of different pay scales to the above posts is discriminatory, however, the reasoning given by the Committee that the nature of duties and responsibilities discharged by the persons holding different posts not being one and same and further there being promotional avenue to the Xerox Operators, the resolution of the Committee to reject the representation of the petitioner Association for grant of similar pay scales to the various categories of posts cannot be said to be perverse, unreasonable and arbitrary. In turn, the decision is fair, considerate and is completely justiciable, as the Committee has considered the various aspects governing the entire matter and having thoroughly satisfied itself has arrived at the said conclusion. This Court, sitting on the judicial side cannot revisit the said decision, there being no arbitrariness or unreasonableness in the reasoning of the Committee.

9. In the above circumstances, this writ petition, being devoid of merits, is liable to be dismissed. Accordingly, the same is dismissed. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

GLN

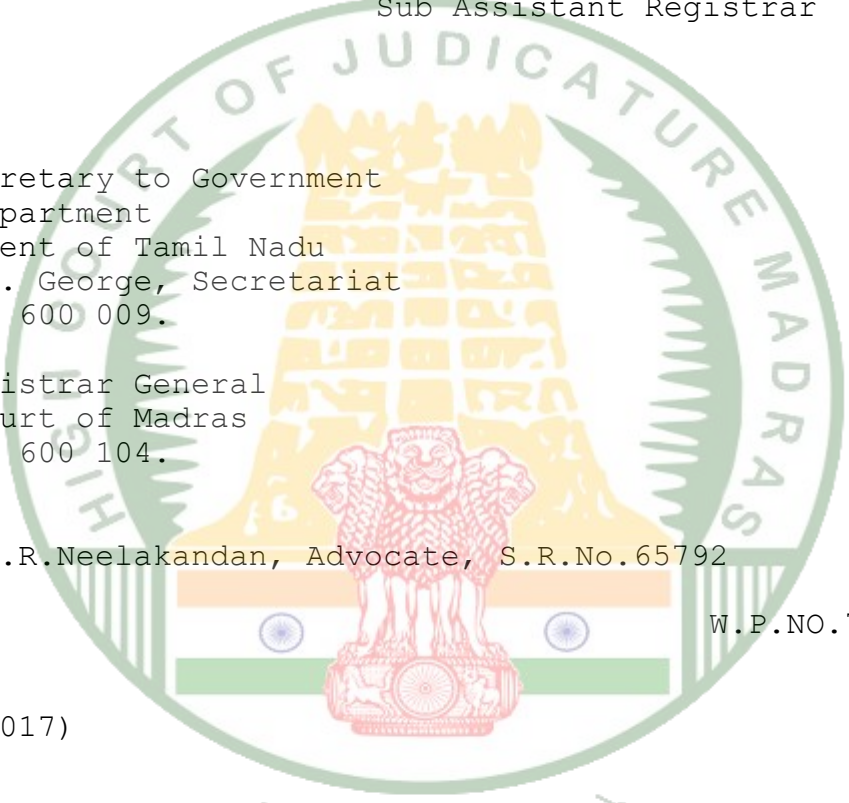
To

1. The Secretary to Government
Home Department
Government of Tamil Nadu
Fort St. George, Secretariat
Chennai 600 009.
2. The Registrar General
High Court of Madras
Chennai 600 104.

+1cc to Mr.R.Neelakandan, Advocate, S.R.No.65792

W.P.NO.734 OF 2015

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CA(03/01/2017)



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