

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 21.11.2016

Delivered on: 01.12.2016

Coram

The Honourable Mr.Justice HULUVADI G.RAMESH
and

The Honourable Mr.Justice V.PARTHIBAN

W.P. No. 7881 of 2015

1. R.Tamil Selvan
2. P.Kaliamuthy
3. V.Murugan
4. D.Anbarasu
5. C.Bactavatchalam
6. R.Rajakumar
7. T.Madhizhagan
8. A.Srinivasse
9. R.Ramanan
10. J.Tayanayaguy
11. S.Kengadaran
12. S.Ramakrishnan
13. Harimadhavan
14. P.Vaithianathan
15. S.Natesan
16. T.Manoharan

... Petitioners

Vs.

1. The Union of India, rep. by
The Union of Territory of Puducherry,
rep. by its Chief Secretary to the
Government of Puducherry,
Secretariat, Goubert Avenue,
Puducherry.

2. The Secretary,
Department of Finance,
The Government of Puducherry,
Secretariat, Goubert Avenue,
Puducherry.

3. The Secretary,
Department of Law,
The Government of Puducherry,
Secretariat, Goubert Avenue,
Puducherry.

4. The Chief Judge,
Judicial Department,
Integrated Court Complex,
Puducherry.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the 1st Respondent relating to the orders in No.1563/1/2013 dated 09/07/2013 to quash the same and to issue consequential directions to the Respondents to fix the pay of the Petitioners with effect from 01.01.1996 in the upgraded scale of pay of Rs.5000-150-8000 Administrative Reforms as per G.O.Ms.No.58 Personnel and Administrative Reforms Department dated 21.12.1997 and grant consequential service and monetary benefits.

For Petitioners : Mr. M.Ravi
For Respondents : Mr.R.Syed Mustafa,
Govt.Pleader (Puducherry)

ORDER

P.PARTHIBAN, J.

This Writ Petition has been filed by the petitioners, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the 1st Respondent relating to the orders in No.1563/1/2013 dated 09/07/2013 to quash the same and to issue consequential directions to the Respondents to fix the pay of the Petitioners with effect from 01.01.1996 in the upgraded scale of pay of Rs.5000-150-8000 Administrative Reforms as per G.O.Ms.No.58 Personnel and Administrative Reforms Department dated 21.12.1997 and grant consequential service and monetary benefits.

2. The petitioners, 16 in number, are Retd.Sherishtadars, Sherishtadars and Assistant Sherishtadars. According to them, Pondicherry Judicial Subordinate Rules, 1979 were framed vide G.O.Ms.No.17/79 L.L.D. dated 20.06.1979 and as per which, various cadres and posts under the Union Territory of Administration of Puducherry were assigned and allotted works in the Subordinate Courts in Puducherry.

3. Before framing of the Rules, the Judicial Department was part of the General Administration Departments of Union Territory. The case of the petitioners was that prior to bifurcation, the pay scale of the Assistant on the General Administration Department side and the pay scale of Assistant

Sherishtadar on the Judicial side, was one and the same, namely, Rs.425-15-530-EB-15-560-20-600. Subsequently, in the year 1981, vide G.O.Ms.No.69, General Administration Department dated 1.8.1981 Group C Non-gazetted Ministerial posts in the Union Territory had been recognized and reconstituted with respective pay scales of various posts on the Ministerial side and as far as the post of Assistant was concerned, there was a slight modification of the pay scale, namely, Rs.425-15-500-EB-56-20-700.

4. Thereafter, on implementation of the recommendations of the IV Central Pay Commission, the pay scale of the Assistant was revised to Rs.1400-2300 with effect from 1.1.1986 which was further revised to Rs.5000-8000 on recommendations of the V Central Pay Commission with effect from 1.1.1996.

5. Although the pay scale of the Assistant Sherishtadar was same as that of the Assistant prior to the IV Central Pay Commission. On implementation of the IV and V Central Pay Commission recommendations, the pay scale granted to the Assistant had witnessed one step higher. As far as the Assistant Sherishtadar was concerned, after the V Central Pay Commission, pay scale was revised to Rs.4500-7000.

6. The case of the writ petitioners is that promotional hierarchy in the General Administration Department and the Judicial Department, if compared, would demonstrate the claim of the petitioners that they are also entitled to pay scale of Rs.5000-8000. The hierarchy of promotion with respective pay scales in both the Departments, is extracted hereunder:

Promotional hierarchy in the Government of Puducherry	Promotional hierarchy in Judicial Department
Superintendent, Grade I	Head Sarishtadar
Superintendent, Grade II	Sarishtadar
Assistant	Assistant Sarishtadar
UDC	Senior Clerk
LDC	Junior Clerk

7. From the above, it could be seen that there was an anomaly in the matter of grant of pay scale in respect of the posts in the Judicial Department from Assistant Sherishtadar to Head Sherishtadar and the anomaly was quite glaring when compared to equivalent post of Superintendent Grade I and Grade II and Assistant in the General Administration Department. In view of the perceived anomaly by the writ petitioners and other

similarly placed persons in the Judicial Department, various representations said to have been made through the Pondicherry State Judicial Employees Association from 1997 onwards requesting for rectification of the anomaly.

8. Pursuant to the several representations, subsequently, the posts of Head Sherishtadar and Sherishtadar were equated to the posts of Superintendent Grade I and Superintendent Grade II respectively and their pay scales came to be revised vide G.O.Ms.No.63 Law Department dated 18.9.2006. The post of Head Sheristadar had been equated with the post of Superintendent Grade I and accorded the pay scale of Rs.6500-10500 and the post of Sheristadar was equated to the post of Superintendent Grade II and accorded the pay scale of Rs.5500-9000.

9. According to the petitioners, while equating the posts of Head Sheristadar and Sheristadar with that of posts of Superintendent Grade I and Superintendent Grade II, the posts of Assistant Sherishtadar was not considered with that of the Assistant in the General Administration Department, for the reasons unknown to them. The contention of the writ petitions is that the Assistant Sherishtadar and Assistant belonging the same category and therefore, under Rule 9 of the Pondicherry Judicial Subordinate Service Rules, 1979, they were entitled to same pay scale as applicable to the post of Assistant in the General Administration Department.

10. In the above circumstances, the writ petitions have submitted their detailed representation to the first respondent on 3.8.2009 setting forth the anomaly in the matter of grant of pay scale to them. Since no action was forthcoming in response to their representation, one of the aggrieved individual approached this Court by filing W.P.No.5561 of 2012 and the said Writ Petition was disposed of by order dated 30.4.2013, directing the first respondent herein to consider the representation dated 3.8.2009 and pass orders on merits in accordance with law.

11. In pursuance of the above direction, an order was passed on 9.7.2013 by the first respondent, rejecting the claim of the petitioners herein, which order is impugned in the present writ petition.

12. According to the impugned order, the claim of the writ petitioners could not be acceded to in view of the recommendations of the First National Judicial Pay Commission, which recommended only the pay scale of Rs.4500-7000 and as far as the post of Head Sherishtadar and Sheishtadar were concerned, the Government Order was issued by taking into consideration recommendations of the First National Judicial Pay Commission.

In such view of the matter, the claim of the writ petitioners cannot be countenanced on law and on facts.

13. The learned Government Pleader (Puducherry), reiterated the contentions as contained in the impugned order and submitted that there was no merit in the claim put forth by the petitioners.

14. On the other hand, the contention raised on behalf of the petitioners is that the pay scale on the Ministerial side and on the Judicial side had been fixed only on the basis of the V Pay Commission and therefore, reliance placed by the Department on the recommendations of the First National Judicial Pay Commission is misconceived and not valid. Except quoting the recommendation of the First National Judicial Pay Commission, the Department has not come forward with any other reason justifying the glaring anomaly in the matter of treatment to the post of Assistant Sherishtadar on pay parity.

15. From the above, it could be seen that the pay anomaly not only existed in the pay scale of Assistant Sherishtadar but also Head Sherishtadar and Sheristadar prior to G.O.Ms.No.63, dated 18.9.2006. While so, rectifying the anomaly only in respect of Sherishtadar and Head Sherishtadar leaving about the Assistant Sherishtadar, cannot be countenanced. There was no convincing reason spelt out in the impugned order of rejection as to why the post of Assistant Sherishtadar alone was singled out in the matter of pay parity, except saying that it was not recommended by the First National Judicial Pay Commission.

16. As stated supra, the pay scale of all the posts in question have been revised only on the basis of recommendations of the V Central Pay Commission and therefore, denying the parity in the pay scale only on the basis of the First National Judicial Pay Commission as far as the post of Assistant Sheristadar is concerned, may not be justified. This is more so when the posts of Head Sherishtadar and Sherisgtadar had been equated with the post of Superintendent Grade I and Grade II respectively, on the Ministerial side.

17. For the foregoing discussion, we are of the view that in the interest of justice, we feel it appropriate to direct the first respondent to consider the claim of the petitioners afresh by taking into consideration of the contentions and the grounds raised by them and also by taking into consideration the nature of work, responsibility and other connected criteria as between the posts of Assistant Sherishtadar and Assistant on the Ministerial side and pass a reasoned order, within a period of four months from the date of receipt of a copy of this order. We do hope that the Government of Puducherry will take a well

considered decision in the matter by applying the principles of reasonableness and equality enshrined in the Constitution of India.

With the above direction, the Writ Petition is disposed of.
No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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rep. by its Chief Secretary to the
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Department of Law,
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Puducherry.

4. The Chief Judge,
Judicial Department,
Integrated Court Complex,
Puducherry.

+1 cc to Mr. M. Ravi, Advocate Sr.No.71098 (23/01/2017)

sk(CO)
md(19/01/2017)

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