

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.36045 of 2016

S.Ruby Kamalam

... Petitioner

vs.

1. The State of Tamil Nadu
rep. by its Secretary,
Tamil Nadu Labour Welfare Board,
DMS Complex, Teynampet,
Chennai-18.

2. Assistant Inspector,
Labour Welfare Centre,
T.S.No.2584, Pallavan Kulam,
Vadimathagu Lane,
Pudukkottai-622 001.

.... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the 1st respondent to step up the pay and accord incremental benefits on par with Mrs.Vijaykumari as on 01.03.1989 and consequently, direct to pay the arrears of the pay/Salary, retiral benefits and revised pension based upon stepping up of pay.

For Petitioner : Mr.K.C.Maniyarasu
For Respondents : Mr.K.Dhananjayan,
Spl. Govt. Pleader

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the 1st respondent to step up the pay and accord incremental benefits on par with Mrs.Vijaykumari as on 01.03.1989 and consequently, directing to pay the arrears of

the pay/Salary, retiral benefits and revised pension based upon stepping up of pay.

3. The case of the petitioner is that she was appointed as Organiser-cum-Tailoring Instructress Grade-II by the proceedings of the 1st respondent in E.1/15294/82 dated 27.01.1984 and joined the Office of the Assistant Inspector of Labour, Valparai on 01.02.1984. On 13.05.1982, the 1st respondent had passed a resolution to the effect that the employees in the post of Organiser-cum-Tailoring Instructress Grade II, who have completed 5 years of service, shall be given promotion to the post of Organiser-cum-Tailoring Instructress Grade-I. According to the petitioner, she has completed 5 years as Organiser-cum-Tailoring Instructress Grade-II on 31.01.1980. Hence, the petitioner has given a representation dated 05.11.1990 seeking promotion to the 1st respondent.

4. It is the further case of the petitioner that one S.Vijayakumari, who is junior to the petitioner and who joined service as Organiser-cum-Tailoring Instructress Grade-II on 03.06.1985, has been promoted to Grade I on 01.08.1992 with retrospective effect from 03.06.1990. Hence, the petitioner made a representation dated 23.08.1991 to the 1st respondent to consider her representation for promotion to the post of Organiser-cum-Tailoring Instructress Grade-I and had also sought for revision of salary and disbursal of arrears. But no action has been taken on the same.

5. In the meanwhile, the petitioner received a communication in Letter No.N.M.(E3) 29056/94 dated 06.06.1994 from the 1st respondent that her application for promotion would be considered retrospective effect at appropriate time. Thereafter, the petitioner has sent several representations to the 1st respondent time and again seeking promotion to the post of Organiser-cum-Tailoring Instructress Grade-I.

6. It is also the case of the petitioner is that all along from the date of joining the service till 31.12.2005, she has received the salary and yearly increments as per the pay scale applicable to the post of Organiser-cum-Tailoring Instructress Grade-II. Further, though, she was promoted to Organiser-cum-Tailoring Instructress Grade-I on 14.03.2006, she was not paid with the pay and yearly increments as per the pay eligible to the said grade till 31.12.2011. Therefore, according to the petitioner, though she was accorded with selection grade and special grade based upon the Grade II Pay scale, she is legally entitled for the revision of the same as per the Grade I Pay Scale with retrospective effect and to claim the same as

arrears from the 1st respondent. Further, it is a settled proposition of law that a senior in service cannot be paid lesser than what a junior in service is entitled to as held by the Hon'ble Apex Court in Er.Gurucharan Singh Grewal & another vs. Punjab State Electricity Board and Others reported in 2009 (3) SCC 94. Thereafter, the petitioner sent several representations to the 1st respondent to step up the pay and accord incremental benefits on par with Mrs.Vijaykumari as on 01.03.1989 and consequently, direct to pay the arrears of the pay/Salary, retiral benefits and revised pension based upon stepping up of pay and she has submitted her last representation on 01.06.2016. Since no action has been forthcoming, the petitioner is before this Court with this Writ Petition.

7. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who has taken notice on behalf of the respondents.

8. Considering the facts and circumstances of the matter, without going into the merits of the claim made by the petitioner, this Court directs the 1st respondent to consider the representation of the petitioner dated 01.06.2016 on merits and in accordance with law and also in the light of the decision of the Hon'ble Apex Court in Er.Gurucharan Singh Grewal & another vs. Punjab State Electricity Board and Others reported in 2009 (3) SCC 94, within a period of six weeks from the date of receipt of a copy of this Order. It is made clear that this Court has not expressed any opinion regarding the claim of the petitioner. It is for the 1st respondent to decide the same on merits.

9. With the above direction, the present writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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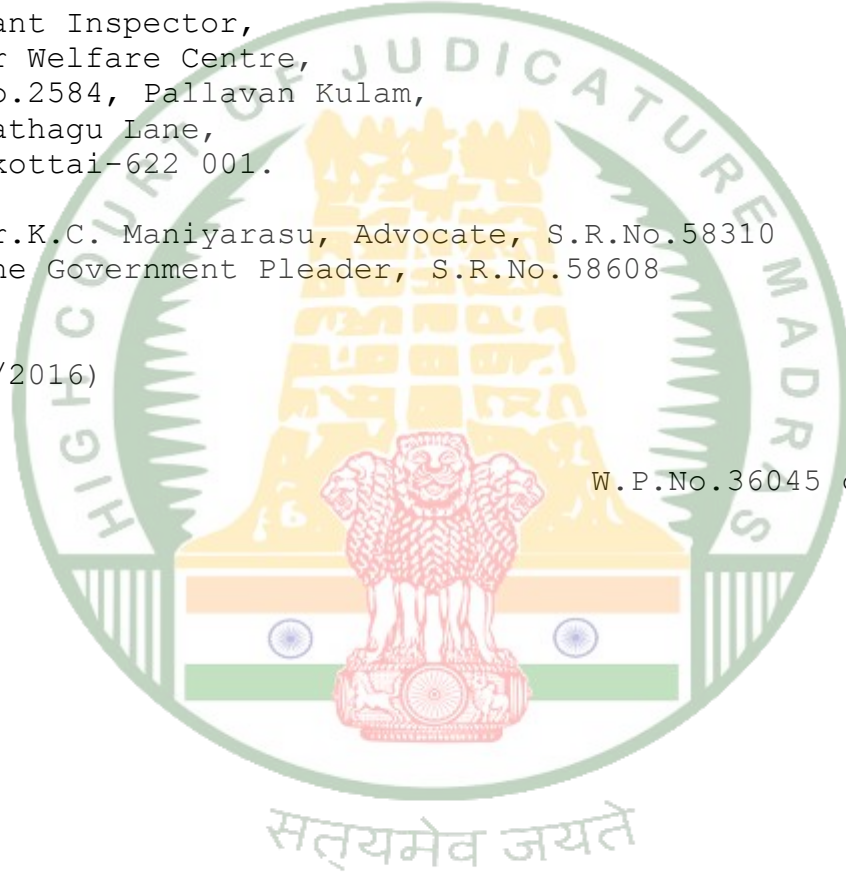
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+1cc to Mr.K.C. Maniyarasu, Advocate, S.R.No.58310
+1cc to the Government Pleader, S.R.No.58608

sai (CO)
md (07/11/2016)

W.P.No.36045 of 2016



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