IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2017

CORAM

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE M.V.MURALIDARAN

W.P.No.14359 of 2015 and
M.P.No.1 of 2015

The Principal Accountant General(A&E)
Office of the Principal Accountant General,
Tamilnadu.
361, Anna Salai, Chennai 600 018.
... Petitioner

Vs.

1.Dr.J.Chandrakumar

2.The Registrar,
Central Administrative Tribunal,
Madras Bench, City Civil Court Building,
Chennai - 600 104.

3.The Secretary to Government,
Government of India,
Ministry of Personnel,
Public Grievances and Pension
Department of Personnel and Training,
New Delhi - 110 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, calling for the records relating to the order of the second respondent made in O.A.No.310/00134/2014 dated 11.07.2014 and quash the same.

For Petitioner : Mr.T.Ravikumar

For Respondents : Mr.U.Karunakaran for R1

O R D E R

K.K.SASIDHARAN,J.

The pay of the first respondent was revised by the Department as per Fitment Table S-25 applicable for the Pre-Revised IAS Scale. Thereafter, the first respondent was given the benefit of 3% increment on the said pay, in accordance with the Indian Administrative Services (Pay) Amendment Rules, 2009, issued on 15 April, 2009 and came into force retrospectively from 1 January 2006. Subsequently, the pay was reduced, by order dated 15 April 2011. The first respondent challenged the said order before the Central Administrative Tribunal. The Tribunal allowed the original application in O.A.No.310/00134/2014 by order dated 11 July 2014. The order is under challenge at the instance of the Principal Accountant General, Chennai.

2. The learned counsel for the petitioner contended that the clarification issued by the Government of India, dated 16 December 2008 is not applicable to the IAS Officers of Tamil Nadu cadre and as such, the first respondent was not entitled to the benefits on the strength of the said clarification. According to the learned counsel, the pay of the first respondent was correctly revised taking into account the provisions of IAS (Pay) Amendment Rules, 2009. The learned counsel contended that the pay was wrongly fixed taking into account the clarification issued in respect of other states, which has no applicability to the State of Tamil Nadu. This aspect was not considered by the Tribunal and as such, the order is liable to be quashed.

3. The learned counsel for the first respondent supported the order passed by the Central Administrative Tribunal.

4. The petitioner has taken up a contention that the clarification issued by the Department of Personnel and Training, dated 16 December 2008 and the Notification dated 29 September 2008 are not applicable to the IAS Officers working in the State of Tamil Nadu. The said contention has no basis, in view of the communication sent by the Department of Personnel and Training, dated 2 December 2013 that the Clarification and the Notification are applicable to all the State Governments in respect of IAS officers.

5. The first respondent was appointed to the Indian Administrative Service by his selection from the State of Tamil Nadu. The pay of the first respondent was fixed in accordance with Sub-Rule 4 of Rule 4 and Paragraph 1 of Schedule - I of the IAS (Pay) Rules 2007. The Ministry of Personnel, Pensions and Public Grievances, Department of Personnel and Training, subsequent to the notification issued by the Government of India, dated 19 September 2008, implementing the VI Central Pay Commission recommendation, instructed the Chief Secretaries of all State Governments and Union Territories to revise the pay of IAS Officers as per the amended Rules. Since there was a doubt with regard to the implementation of the new pay structure, clarification was sought by the State Governments and Accountant Generals from the Government of India. The Government of India, issued a clarification on 16 December 2008. The pay of the first respondent was revised taking into account the spirit of the clarification letter, dated 16 December 2008.

6. Subsequently, the Government of India issued IAS (Pay) Amendment Rules. The Notification was issued on 15 April 2009. The amendment was given retrospective effect from 1 January 2006.

7. The petitioner, without taking into account the Explanatory Memorandum annexed to the Rules issued on 15 April 2009 revised the pay scale of the first respondent. The pay was reduced with retrospective effect from 10 March 2008 . There was a direction to recover the excess salary paid to the first respondent.

8. The Department of Personnel and Training, issued a clarification dated 21.11.2011, indicating that the first respondent is entitled to draw the pay as fixed originally. The clarification reads thus:-

> "As the recalculation of initial pay of Shri.J.Chandrakumar, on account of State pay revision has been done without any request from the officer and the same has resulted in loss in pay already fixed at the time of appointment in IAS, it has been decided that Shri.J.Chandrakumar may be allowed to draw the pay as fixed at the time of his appointment and as revised by the State Government on implementation of the 6th CPC Report. This Department's letter of even no.dated 21st February 2011 may be treated as modified to this extent."

9. The petitioner revised the pay scale and justified its action notwithstanding the clarification issued by the Department of Personnel and Training.

10. The Department of Personnel and Training considered the individual case and issued a clarification that the pay of the first respondent was correctly fixed, meaning thereby, there is no ground made out to reduce the pay subsequent to the said clarification.

11. The Tribunal considered the issue in a detailed manner and arrived at a clear finding that the reduction of pay scale was not correct. We do not find any reason to take a different view in the matter. We are therefore of the view that there is no merit in the writ petition.

12. In the up shot, we dismiss the writ petition. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1.The Registrar,
Central Administrative Tribunal,
Madras Bench, City Civil Court Building,
Chennai - 600 104.

2.The Secretary to Government,
Government of India,
Ministry of Personnel,
Public Grievances and Pension
Department of Personnel and Training,
New Delhi - 110 001.

+2cc to M/s.T.Ravikumar,Advocate sr.16416

+1cc to M/s.U.karunakaran,Advocate sr.17255

W.P.No.14359 of 2015

ss(19/4/2017)