

In the High Court of Judicature at Madras

Dated : 17.4.2017

Coram :

The Honourable Mr.Justice NOOTY.RAMAMOHANA RAO

and

The Honourable Mr.Justice S.M.SUBRAMANIAM

W.P.No.2446 of 2015

Tamil Nadu Civil Court Junior Bailiff
Process Servers Association,
Sub-Court (State Centre) Ponneri,
rep. by its State President T.DhanapalPetitioner

Vs

R2.The Principal Secretary to Government,
Home (Courts V) Department,
Fort.St. George, Chennai-9.

R1.The Registrar General, High Court,
Chennai-104.Respondents
(R2 impleaded as per order
dated 13.7.15 in M.P.1 of 2015)

PETITION under Article 226 of The Constitution of India
praying for issuance of Writ of Mandamus directing the
respondent to address the Government for clarification with
regard to G.O.Ms.No.1011 dated 07.12.2010 and consequently
direct the payment of one advanced increment to all the members
of the association with effect from 01.4.2003 as ordered by the
Hon'ble Apex Court.

For Petitioner :Mr.R.Marudhachala Murthy
For Respondent-1 :Mr.M.Baskar
For Respondent-2 :Mr.P.S.Sivashanmuga Sundaram, Spl GP

Order of the Court was made by NOOTY.RAMAMOHANA RAO,J

This writ petition is instituted by Tamil Nadu Civil Court
Junior Bailiff Process Servers Association, seeking a Writ of
Mandamus by directing the first respondent in the writ petition

namely, the Registrar General, High Court of Madras to address the State Government for clarification with regard to the orders passed by the State Government contained in their G.O.Ms.No. 1011 dated 07.12.2010 and to consequently make payment of one advance increment to all the members of the association with effect from 01.4.2003 as ordered by the Apex Court.

2. The writ petitioner association is espousing the cause of Process Servers/Junior Bailiffs. The inspiration for them to institute the present writ petition springs essentially from an interlocutory order passed by the Hon'ble Supreme Court on 07.10.2009. On that date, a bunch of interlocutory applications moved in W.P.(C) No.1022 of 1989 have been taken up for consideration and the Supreme Court disposed of those interlocutory applications with the following directions :

"We direct that

(i) The High Courts, on judicial/administrative side, will ensure implementation of the recommendations of the Shetty Commission within a reasonable period of one year. The High Court shall permit writ petitions or applications that may be filed by the individual or staff association representing the various members of the staff.

(ii) The High Court shall also see that the recommendations are implemented with effect from 1.4.2003.

(iii) There shall be benefit of one advance increment on the existing pay scale instead of initial pay scale in many of the States, the same benefit has not been given to the members of the staff, the High Court should also see that these recommendations are implemented.

(iv) In some of the States based on various other pay commission reports, benefits, had been given to the members of the staff, these benefits, if any, given shall be in addition to the recommendations given by the Shetty Commission. In any case, if the members of the staff association/subordinate staff getting higher benefits under any of the recommendations of the pay commission/Government Orders, they shall be permitted to avail those benefits."

3. From the above order, it is clear that wherever the States/Union Territories have not implemented the recommendations of the Shetty Commission, the respective High

Courts, on the Judicial/Administrative Side, would ensure implementation of the Shetty Commission recommendations with effect from 01.4.2003. With regard to the benefit of one advance increment on the existing pay scales and where such benefits have not been extended, the High Court was also directed to ensure that the recommendations in that respect are implemented.

4. When several subordinate staff have complained of improper implementation of the Shetty Commission recommendations by the State of Tamil Nadu, a Division Bench of this Court, by its order dated 29.10.2010 in M.P.No.4 of 2010 moved in W.P.No.8969 of 2010, directed the State Government to reconsider the matter. Accordingly, the State Government reconsidered the matter and passed orders through their G.O.Ms.No.1011 Home (Cts. V) Department dated 07.12.2010. Paragraphs 5 and 6 thereof read as under :

"5. With regard to grant of one increment at initial rate of pay scale of the subordinate courts staff, the Justice Shetty Commission has recommended the following :

Holders of the following common category posts in the ministerial cadres other than to whom recommended higher pay scales, be given one increment at the initial rate of the pay scale admissible to them.

Name of the Post	Scale of Pay	Rate of Increment
	Rs.	Rs.
Sheristadar, City Court/District Courts	6500-10500	200
Chief Clerk/Head Clerk/Central Nazir, etc. of MMC/CCC/CSC	5500-9000	175
Deputy Registrar/Deputy Nazir/Head Accountant/Superintendent / Copyist/Record Keeper/Interpreter - Translator, etc.	5300-8300	150
Assistants/Accountant/Treasurer, etc.	4000-6000	100
Junior Assistant/Nazir Assistant, etc.	3200-4900	85
Writer/Record Clerk	2650-4000	65

Name of the Post	Scale of Pay	Rate of Increment
Record Clerk in District Court	2610-3540	60
Steno Typist (Grade III)	4000-6000	100

6. The Government, after careful consideration, have decided to comply with the orders of the Hon'ble High Court of Madras dated 29.10.2010 in M.P.No.4 of 2010 in W.P.No.8969 of 2010. Accordingly, in supercession of the orders issued in paragraph 6 of the G.O. fourth read above, the Government issues the following revised orders :

(i) One increment at the initial rate of the pay scale admissible to the following common category posts in ministerial cadre of Tamil Nadu Judicial Ministerial Service be granted with effect from 01.4.2003.

Name of the Post	Scale of Pay	Rate of Increment
	Rs.	Rs.
Sheristadar, City Court/District Courts	6500-10500	200
Chief Clerk/Head Clerk/Central Nazir, etc. of MMC/CCC/CSC	5500-9000	175
Deputy Registrar/Deputy Nazir/ Head Accountant/Superintendent / Copyist/Record Keeper/Interpreter - Translator, etc.	5300-8300	150
Assistants/Accountant/Treasurer, etc.	4000-6000	100
Junior Assistant/Nazir Assistant, etc.	3200-4900	85
Writer/Record Clerk	2650-4000	65
Record Clerk in District Court	2610-3540	60
Steno Typist (Grade III)	4000-6000	100

(ii) The Process Server (Junior Bailiff) has been granted higher pay revision from Rs.2650-4000 to Rs.3050-4590 as recommended by the Justice Shetty Commission. Hence, granting an increment at the initial rate of the enhanced pay scale to the Junior Bailiffs does not arise. However, the Senior Bailiff, who are presently placed on par with Junior Assistant and who have not been granted pay revision, be allowed the benefit of one increment at the initial rate of pay scale as in the case of other ministerial categories recommended by the Justice Shetty Commission."

5. Thus, the State Government, in compliance with the orders passed by the Supreme Court and also as per the orders of this Court dated 29.10.2010, granted one increment more to the categories of ministerial employees mentioned in paragraphs 5 and 6 thereof with effect from 01.4.2003. In so far as the Process Servers/Junior Bailiffs are concerned, the State Government has taken the view that as they have been granted revised pay scale of Rs.3050-4590 as per the recommendations of the Shetty Commission, granting one more increment in the enhanced pay scale to them would not arise. That was because of the reason that there was no such recommendation made by the Shetty Commission in respect thereof.

6. Hence, we asked the learned counsel for the writ petitioner to demonstrate before us as to how the orders passed by the State Government in their G.O.Ms.No.1011, in so far as paragraph 6(ii) to the extent of Junior Bailiffs are concerned, is offending the order passed by the Supreme Court on 07.10.2009 or for that matter the order passed by this Court on 29.10.2010. The learned counsel for the writ petitioner could not demonstrate the right of the Process Servers/ Junior Bailiffs to get the financial benefit of one added increment to the initial scale of pay as per the Shetty Commission recommendations. In the absence of any such material, which can vouch for such an entitlement of the advance increment, the State Government, is right in suggesting that all those Judicial Ministerial Service employees, who have been assigned the revised scale of pay as per the recommendations of the Shetty Commission, are not entitled automatically for the benefit of fitment of one additional increment in the revised pay scale.

7. Therefore, we do not find any infirmity in the decision of the State Government in denying the Process Servers/Junior Bailiffs the benefit of additional increment in the revised pay scale implemented as per the Shetty Commission recommendations.

8. There is no merit in this writ petition and it accordingly stands dismissed. The writ petitioner association is directed to make a contribution of Rs.500/- (Rupees five hundred only) to the Chief Justice Relief Fund as costs of this litigation.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Registrar General,
High Court, Chennai-104.

2.The Principal Secretary to Government,
Home (Courts-V) Department,
Fort.St. George, Chennai-9.

Copy to

The Section Officer,
Accounts Section, High Court,
Madras.(for payment of costs)

+1cc to Mr.R.Marudhachalamurthy, Advocate Sr.23091
+1cc to the Government Pleader Sr.23555

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srg 27/04/2017