

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7624 of 2012

1.C.Charles Samuvel
2.Nagarajan
3.S.C.Viswanathan
4.R.Ganesan

..Petitioners

Vs.

1.Government of Tamil Nadu
represented by the Principal Secretary to the Government
Finance Department
Fort St.George, Chennai 600009.
2.The Secretary to the Government
Home Department
Fort St.George, Chennai 600009.
3.The Deputy Inspector General of Police
Armed Force, Chennai 600 010.
4.The Works Manager
Police Transport Workshop-cum-Training School
Avadi, Chennai 600 054.

..Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to grant the petitioners the benefit of personal pay of 5% of the basic pay in accordance with G.O.Ms.No.664, Finance (PC) Department dated 24.08.1992 with all consequential benefits including payment of arrears of salary and re-fixation of pay.

For Petitioner : Mr.P.Manoj Kumar

For Respondents: Mr.R.Vijayakumar
Addl. Government Pleader

* * * * *

O R D E R

The relief sought for in this writ petition is to direct the respondents to grant the petitioners the benefit of personal pay of 5% of the basic pay in accordance with G.O.Ms.No.664, Finance (PC) Department dated 24.08.1992, with all consequential benefits.

2.The learned counsel appearing for the writ petitioners submits that the writ petitioners are working as Watchman in the Police Transport Workshop-cum-Training School, Avadi, Chennai and their initial appointments were made in the post of Watchman. The fact remains that Government issued G.O.Ms.No.664, Finance (PC) Department dated 24.08.1992, based on the plea of the employees to extend some sympathetic consideration in respect of rectification of pay anomaly. Accordingly, the Government directed that 5% of basic pay computed as on 01.06.1998, be granted as personal pay to the following categories:

- "i)All categories of staff in the pre revised scales of pay at Rs.475 - 775 moving over to the revised scale of pay of Rs.775 - 1030.
- ii)All categories of staff in the pre revised scales of pay at Rs.610 - 1075 moving over to the revised scale of pay of Rs.950 -1500 or 975 - 1660.
- iii)All categories of staff in the pre revised scales of pay at Rs.705 - 1230 moving over to the revised scale of pay of Rs.1200 - 2040, and
- iv)All categories of staff in the pre revised scales of pay at Rs.905 - 1545 moving over to the revised scale of pay of Rs.1600 - 2660."

3.The learned counsel for the writ petitioners made a submission that the claim of 5% pay in respect of similar categories akin to that of the writ petitioners were granted and this Court also allowed certain Writ Petitions in favour of such employees. The learned counsel cited one such order passed on 26.06.2008 in W.P.Nos.28505 and 28611 of 2006, wherein this Court has granted the relief of 5% personal pay to those petitioners.

4.However, this Court has to consider the fact that the writ petitioners are now seeking the rectification of the pay anomaly which occurred in the 5th Pay Commission which was implemented with effect from 01.06.1988. Even as per the Government Order in G.O.Ms.No.664 dated 24.08.1992, the pre-revised scale of the 4th Pay Commission was cited and the revised scale of pay of 5th Pay Commission was also cited as criterias for the grant of 5% personal pay. Thus, this Court is of the opinion that after 01.06.1988, there were may changes in subsequent Pay Commissions and in fact the 5th Pay Commission was implemented with effect from 01.06.1996 and the 6th Pay Commission also was implemented on 01.01.2006 and now the 7th Pay Commission has also be implemented with effect from 01.10.2017 .

5.Thus, three Pay Commissions were implemented in respect of the writ petitioners also, there were lot of changes in Scales of Pay and the writ petitioners were also either promoted to the higher post or granted with selection grade/ special grade, in their respective cadre. The fact remains that the benefit of 5% personal pay has been amended in G.O.Ms.No.664 dated 24.08.1992. However, the petitioners have chosen to file the writ petition only on 19.3.2012, after a lapse of about twenty years and during the interregnum period, two Pay Commissions were implemented. This apart, 'Pay Redressal Committees' were constituted by the Government and pursuant to the recommendations of the Pay Redressal Committee, many alternative notifications/changes were implemented by the Government in respect of the pay of the employees of the Central and in respect of the pay of the employees working in the State. Thus, this Court is of the opinion that the long delay in claiming the pay anomaly will certainly cause prejudice to the State Exchequer also. Thus, the Writ Petition is liable to be rejected on the ground of laches also.

6.The learned Additional Government Pleader appearing for the respondents made a submission that the writ petitioners are not eligible for the benefit of 5% personal pay on account of the fact that the scale of pay of Rs.1600 - 2660, was covered under the four categories mentioned therein and therefore, the Head Clerks were permitted the benefit of 5% personal pay based on the directions of the Court. However, the case of the petitioners is not the same as above and they were appropriately placed in the revised scale of pay of Rs.2550-3200, as applicable to Group 'D' employees in Government of India. Hence, the petitioners cannot claim any alternative benefit. Further, the learned Additional Government Pleader referred the Government Letter issued by the Finance Department dated 25.03.1999, which reads as follows:

"8.....

However, the contention of the Court is that the Scales of pay of Rs.1600-2660 is covered under the four categories mentioned therein and therefore the Head Clerks were permitted the benefit of 5% personal pay based on the directions of the Court. The case of the petitioners is not the same as above and they were appropriately placed in the revised scale of pay of Rs.2550-3200 as applicable to Group 'D' employees in Government of India. Hence, the petitioners cannot claim an alternative benefit."

7.Even as per the affidavit filed by the writ petitioners in support of the writ petition, it is stated that the pre-revised scales of the writ petitioners were 450-10-570-15-720 as on 01.10.1984 and the same was revised to 750-12-870-14-940 as on 01.06.1988. Even as per the statement submitted by the writ petitioners, the pre-revised scale of pay was Rs.450-720 and the

revised scale of pay of Rs.750-940, has not been stipulated in the four categories as mentioned in G.O.Ms.No.664.

8. When a similar grievance was entertained from similarly situated categories of employees, who have identical fourth pay commission scales of pay and for whom also the fifth pay commission has given equally identical revised scale of pay, requested the State Government, the State Government passed revised orders through their G.O.Ms.No.873, Finance (Pay Cell) Department, dated 27.12.1993, extending the benefit of payment of 5% personal pay, allowances to all those categories of employees who were in the fourth pay commission pay scale of Rs.475-775/- moving to Rs.775-1030/-, the fifth pay commission scale, similarly Rs.610-1075/- moving to Rs.950-1500/- or Rs.975-1660/-. Those Rs.705-1230/- moving over to Rs.1,200-2040 and Rs.905-1545 moving over to Rs.1,600-2660/-. The petitioners are not coming under any one of these four categories, even as per the revised Government Order issued by the Government in G.O.Ms.No.873, Finance (PC) Department dated 27.12.1993. The parity thus restored is only for securing the same fifth pay commission revised scales of pay to the particular categories and therefore, the benefit of payment of 5% personal pay cannot be now extended by this Court by enlarging the scope of the Government order in this regard.

9. The benefit of 5% was granted to rectify the anomalies between certain categories in the similar cadre and the same was implemented with effect from 01.06.1988. This being the factum of the case and the writ petition has been filed after a lapse of twenty years from the date of issuance of G.O.Ms.No.664, this Court is not inclined to consider the relief of grant of 5% personal pay after this length of time.

10. Accordingly, the Writ Petition stands dismissed on merits as well as on the ground of laches. No costs. Consequently, connected Miscellaneous Petitions are closed.

सत्यमेव जयते

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

rpa

To

1. The Principal Secretary to Government,
Finance Department
Fort St.George, Chennai 600009.
Government of Tamil Nadu
- 2.The Secretary to the Government
Home Department
Fort St.George, Chennai 600009.
- 3.The Deputy Inspector General of Police
Armed Force, Chennai 600 010.
- 4.The Works Manager
Police Transport Workshop-cum-Training School
Avadi, Chennai 600 054.

+1 CC to Mr.P.Rajendran, Advocate SR.No.76173

CO-
ths : 22.11.2017



W.P.No.7624 of 2012

WEB COPY