

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED :19.09.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM  
W.P.No.37793 of 2015

and

M.P.No.1 of 2015

and

W.M.P.Nos.34326 & 34327 of 2016

1.D.Manohar  
2.M.V.Prakasam  
3.S.K.Dhanapal  
4.N.Ranganathan  
5.C.Jagadeesan  
6.P.C.Achudhan  
7.V.Kannan  
8.K.Vijayakumar  
9.P.Devan  
10.M.Gunasekaran  
11.M.Manoharan  
12.C.PaneerSelvam  
13.V.selvaraju  
14.P.George

...Petitioner

Vs

1.Principal secretary to Government,  
Tourism Culture and Religious  
Endowments Department,  
Secretariat, Chennai - 600 009.

2.Principal Secretary to Government,  
Home Department,  
Secretariat, Chennai - 600 009.

3.Principal Secretary to Government,  
Information and Public  
Relations Department,  
Secretariat, Chennai - 600 009.

4.Principal Secretary to Government,  
Public Department,  
Secretariat, Chennai - 600 009.

5.Principal Secretary to Government,  
Tamil Development and  
Information Department,  
Secretariat, Chennai - 600 009.

6.Principal Secretary to Government,  
Personnel and Administration  
Reforms Department,  
Secretariat, Chennai - 600 009.

7.Principal Secretary to Government,  
Finance(Pay Cell) Department,  
Secretariat, Chennai - 600 009.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to implement the revised pay scale in the Selection Grade at Rs.5000-150-8000 and Special Grade at Rs.5500-175-9000 as per Schedule II to the Tamil Nadu Revised Scale of Pay Rules 1998, to the Petitioners, from the respective dates of completion of 10 years of service in the Ordinary Grade and completion of 10 years service in the Selection Grade, with all consequential benefits and revise the pensionary benefits and to pay all the arrears within a stipulated time period.

For Petitioners : M/s.Kavitha Deenadayalan  
For Respondents : Mr.S.Gunasekaran  
Government Advocate

#### O R D E R

The relief sought for in this writ petition is to direct the respondents to implement the revised pay scale in the Selection Grade at Rs.5000-150-8000 and Special Grade at Rs.5500-175-9000 as per Schedule II to the Tamil Nadu Revised Scale of Pay Rules 1998, to the Petitioners, from the respective dates of completion of 10 years in the Ordinary Grade and completion of 10 years service in the Selection Grade, with all consequential benefits and revise the pensionary benefits.

2.The writ petitioners were working as Drivers and all the petitioners had retired from service on attaining the age of superannuation. Now, the petitioners are receiving pension under the Tamil Nadu Pension Rules and moved this writ petition for revision of Scale Pay based on the Tamil Nadu Revised Scale of Pay Rules 1998. The issue was discussed at length by the Hon'ble Division Bench of this Court in W.A.Nos.1398 of 2013 and batch of cases on 08.07.2015. The Hon'ble Division Bench elaborately dealt the merits and the demerits of the case based on the judgement of the Hon'ble Supreme Court of India and passed the following orders:

"40. In this case, we have gone through the Government Orders many times, to find out what scale of pay the drivers are entitled to, in the Selection and Special Grades. We are unable to find, however lenient our approach is, that the writ petitioners could legitimately lay a claim for a Selection Grade scale of pay of Rs.5000-8000 and Special Grade scale of pay of Rs.5500-9000. Therefore, what they have claimed and got in most of the previous decisions of this Court is not what they are lawfully entitled to. Once this is clear, it would follow as a natural consequence that the writ petitioners herein want only that illegality to be perpetrated. An illegality will not undergo a metamorphosis and become legal, merely because it received the seal of approval of a Court of law. Therefore, the third contention is also liable to be rejected.

41. In *Union of India v. Kartick Chandra Mondal* [(2010) (2) SCC 422], the Supreme Court, relying upon its previous decisions in various cases including the one in *State of Bihar v. Upendra Narayan Singh* [(2009) 5 SCC 69], held that Article 14 is a positive concept and that it cannot be enforced in a negative manner. The Court further held that if an illegality or irregularity has been committed in favour of any individual or a group of individuals or a wrong order has been passed by a judicial forum, others cannot invoke the jurisdiction of the higher or superior Court for repeating or multiplying the same irregularity or illegality or for passing a wrong order. Interestingly, the decision of the Supreme Court in *Kartick Chandra Mondal* was subsequent to the decision in *Maharaj Krishan Bhatt* and the decision in *Maharaj Krishnan Bhatt* is also referred to in *Kartick Chandra Mondal*.

42. Therefore, in the result, all the writ petitions filed by the individual employees claiming Selection Grade scale of pay of Rs.5000-8000 and Special Grade pay scale of Rs.5500-9000 are liable to be dismissed. However, there are a few writ petitions such as W.P.Nos.23550 of 2010, 5498 of 2012 and 30616 of 2012, where the employees claim that they are not even granted the admissible Selection Grade and Special Grade scales pay of Rs.4000-6000 and Rs.4300-6000 respectively.

43. Therefore, with a clarification that all the petitioners in the writ petitions and the respondents in the writ appeals are entitled only to a Selection Grade scale of pay of Rs.4000-100-6000 and a Special Grade scale of pay of Rs.4300-100-6000, but not more than that, all the writ petitions filed by the employees are dismissed. All the writ appeals filed either by the State Government or by various Heads of Departments or by various officers of the Government or by various Local Bodies or Boards or Corporations, shall stand allowed. There will be no order as to costs."

3. In view of the judgment delivered in the batch of cases cited supra, the grounds raised in this writ petition deserve no further consideration. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. Principal secretary to Government,  
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Secretariat, Chennai - 600 009.

+1 cc to Mrs.Kavitha Deenadayala Advocate sr 68155  
+1 cc to the Government Pleader sr 69430

W.P.No.37793 of 2015

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