



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2017

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

W.P.(MD) No.2465 of 2014

TamilNadu Judicial Bailiffs Association,
State Centre at Madurai District Court,
Madurai,
Through its President,
Thambidurai.

... Petitioner

Vs.

1. The State of TamilNadu,
Rep. by its Secretary,
Home (Courts V) Department,
Fort St. George, Chennai-600 009.

2. The Registrar (General),
High Court of Judicature at Madras,
Chennai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings passed by the 1st respondent in G.O.No.956, Home (Courts V) Department, dated 08.11.2013 and quash the same in so far as the date of implementation alone in Column No.2 is concerned and further direct the 1st respondent to grant the benefits with effect from 01.02.2011.

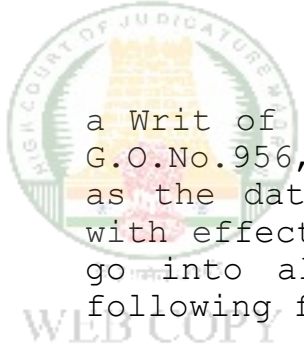
For Petitioner : Mr.R.V.Rajkumar
For Respondents : Mr.S.Chandrasekar for R1
Government Advocate
Mr.T.S.Mohammed Mohideen for R2

O R D E R

[Order of the Court was made by T.S.SIVAGNANAM,J]

Heard Mr.V.Rajkumar, learned counsel for the petitioner,
Mr.S.Chandrasekar, learned Government Advocate for R1 and
Mr.T.S.Mohammed Mohideen for R2.

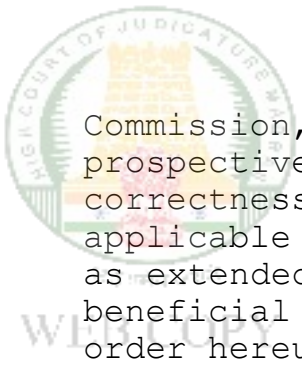
2. The petitioner in this writ petition is the Tamil Nadu Judicial Bailiffs Association, and they have sought for issuance of



a Writ of Certiorarified Mandamus to quash the Government Order in G.O.No.956, Home (Courts V) Department, dated 08.11.2013 in so far as the date of implementation in column 2 alone and grant benefit with effect from 01.02.2011. It may not be necessary to elaborately go into all the factual aspects and it is suffice to note the following facts.

3. Pay scales of various categories of post were revised by the State Government vide G.O.Ms.No.234, dated 01.06.2009. Various categories of posts being Junior Assistants, Typist, Assistant and Copyist Grade-III were included in the first category. The posts of Telephone Operator, Telegram Operator, Messenger, Assistant, Record Assistant, Record Keeper and Lab Assistant were included in the second category. The posts of Village Administrative Officer and Village Assistant were included in the third category. The post of Drivers (Working in all departments) were included in the fourth category. The Post of Bailiffs was included in the fifth category. The pay scales of all the above categories of posts were identical prior to revision, as per 1998 Pay Rules, time scale of pay approved in G.O.Ms.No.162, dated 13.04.1998 namely in the scale 3200-85-4900. Subsequently, the Government took a decision to revise the pay scale in the year 2009 vide G.O.Ms.No.234, dated 01.06.2009, the pay scale for above referred posts were revised as 5200-20200+2000(GP). Subsequently, the Government took a decision by passing various Government Order by increasing the Grade Pay. So far as I category of posts mentioned above vide G.O.Ms.No.45, dated 10.02.2011, the Grade Pay was fixed at Rs.2400 with effect from 01.02.2011. So far as II Category of posts mentioned above vide G.O.Ms.No.63, dated 26.02.2011, the Grade Pay was fixed 2400 with effect from 01.03.2011. So far as III Category of posts mentioned above vide G.O.Ms.No.64, the Grade Pay was fixed 2400 with effect from 01.03.2011. So far as IV Category of posts mentioned above vide G.O.Ms.No.65, dated 26.02.2011 the Grade Pay was fixed 2400 with effect from 01.03.2011. Only with regard to the V Category while increasing the Grade Pay to 2400 as in other category of posts, the same was given effect to only from 01.04.2013 vide G.O.Ms.No.956, dated 08.11.2013. This is questioned by the petitioner association.

4. In some what identical circumstances, a Division Bench of this Court in **Rohit Rasikchandra Pathak v. Government of Tamil Nadu** reported in **(2015) 2 MLJ 129** in which one of us was a party (TSSJ) considered as to whether such different dates can be fixed by the Government for granting monetary benefits. In the above said case, the petitioners were interpreters appointed in the High Court and they sought for quashing of G.O.Ms.No.291, Finance (Pay Cell) Department, dated 26.08.2010 and to direct the respondents therein to pay salary with monetary benefits from 12.12.2007 which was adopted in respect of other equal category of posts. The Government resisted the said prayer by stating that the case of the interpreters was referred to a Anomaly Commission set up by the Government and the Anomaly Commission which is a one man Commission made recommendations and based on the recommendations of the One Man



Commission, the Government implemented the revised pay scale with prospective effect. The Division Bench while considering the correctness of the said Clause 2, held that the said Clause was not applicable and the interpreters were entitled to monetary benefits as extended to other categories of posts. At this stage, it would be beneficial to refer to the operative portion of the Division Bench order hereunder:-

"16. It has to be pointed out that at the first instance the benefit of upgradation was extended only to two posts namely, the post of Section Officer and Personal Assistant to Hon'ble Judges by G.O.Ms.No.1841, dated 15.12.2007, with monetary benefit from 12.12.2007. It is only after about more than eight months, same benefit was extended to the posts of Appeal Examiner, Deputy Sheriff, P.S., to the Registrar General by G.O.Ms.No.921, dated 11.08.2008. Thereafter, after about two months by G.O.Ms.No.1450, dated 29.10.2008, the same benefit was granted to the post of Court Officer and Court Fee Examiners with monetary benefit from 12.12.2007. Therefore, when the Government had extended monetary benefit to all the posts mentioned in the three Government Orders with effect from 12.12.2007, there is no reason why such benefit should be denied to the petitioners holding the post of Interpreter in the Madras High Court Service.

17. Hence, we have no hesitation to hold that denial monetary benefits to the post of Interpreters w.e.f., 12.12.2007, is arbitrary, unreasonable and wholly discriminatory and therefore, paragraph 2 of the impugned Government Order calls for interference and accordingly, that portion of the order restricting the monetary benefits from 01.08.2010, has to be necessarily set aside and the persons holding the post of Interpreter to be entitled for monetary benefits w.e.f., 12.12.2007, on par with the other posts in the Madras High Court Service who were granted monetary benefit w.e.f., 12.12.2007, vide G.O.Ms.No.1841, dated 15.12.2007, G.O.Ms.No.921, dated 11.08.2008, and G.O.Ms.No.1450, dated 29.12.2008.

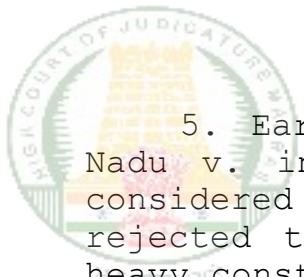
18. This leaves us with the next question regarding the alleged financial difficulty. As pointed out earlier the case relating to the post of Interpreter is not a case pertaining to a pay anomaly, in fact it was on account of omission to include the posts in the earlier Government Orders. In such circumstances, if monetary benefits is granted to the post of Interpreter w.e.f. 12.12.2007, the same cannot be relied on by other category of posts who claim parity with that of the post of Superintendent on the ground that such posts are inter-changeable with that of the post of



Superintendent. Such cases are cases where there is an anomaly which requires to be examined by the Anomaly Commission/One Man Commission and after recording reasons, the Commission thought fit to equate certain posts and recommended to the Government such equation and giving monetary benefit with prospective effect. However, insofar as the post of Interpreter, the One Man Commission took note of the recommendation of the Registrar General and that the post of Interpreter enjoyed pay parity with that of the post of Section Officer/Private Secretaries in Tamil Nadu Secretariat Service as well as Section Officers, Court Officers, P.A. To Hon'ble Judges of High Court and found the claim to be justifiable. The One Man Commission did not embark upon any exercise to equate the post of Interpreter with that of the other posts as all along the posts enjoyed pay parity with other posts. Therefore, the reason assigned by the Government that if the revised scales are implemented w.e.f. 12.12.2007 for the post of Interpreter would result in a heavy financial burden for the State Exchequer is a submission, which deserves to be rejected for the reasons assigned above.

19. It is to be further pointed out that no other posts which were granted benefit by the One Man Commission after setting right the anomaly with monetary benefit prospectively can fall back upon the case of Interpreter of the Madras High Court Service and claim retrospective monetary benefit. Therefore, by implementing the revised pay scales for the post of Interpreter in the Madras High Court Service can have no impact on any other service/post which was dealt with by the One Man Commission as the facts in the instant case are unique and distinct.

20. In the result, the Writ Petition is allowed and the impugned order insofar as it relates to paragraph 2 restricting the monetary benefit from 01.08.2010 is quashed and the respondents 1 and 2 are directed to extend monetary benefit to the post of Interpreter in the Madras High Court Service w.e.f., 12.12.2007 on par with the post of Section Officer, P.A. to Hon'ble Judges, Appeal Examiners, Deputy Sheriff, P.S. To Registrar General, Court Officers, Court Fee Examiner, which posts were granted upgradation of scale and monetary benefit w.e.f 12.12.2007, vide G.O.Ms.No.1841, dated 15.12.2007, G.O.Ms.No.921, dated 11.08.2008, and G.O.Ms.No.1450, dated 29.10.2008. The respondents are further directed to implement the above direction within a period of eight weeks from the date of receipt of a copy of this order and pay arrears. No costs. Consequently, connected Miscellaneous Petitions are



5. Earlier a Division Bench of this Court in State of Tamil Nadu v. in P.Munisamy, in W.A.No.768 of 1984, dated 15.04.1986, considered a similar grievance expressed by a Senior Bailiff and rejected the stand of the Government stating that there will be heavy constraint on the exchequer on account of financial commitment and directed that scale of pay fixed in the category of Amins to which the writ petitioner belonged to be revised on par with the Senior Bailliffs working in the Madras City with effect from the date when the Tamil Nadu Revised Scales of Pay Rules 1978 came in force.

6. It is noteworthy to mention that the second respondent in the counter affidavit has also referred to the decision of the Hon'ble Division Bench in Rohit Rasikchandra Pathak (cited supra). Therefore, there is no justifiable reason given by the first respondent to adopt a different date in respect of bailiff alone when uniform Grade Pay was fixed for all the category of posts, which was implemented from 01.03.2011 except in Category I, which was fixed with effect from 01.02.2011. We have no hesitation to hold that the impugned Government Order has discriminated the similarly placed persons by adopting a different date. Following the judgment of the Hon'ble Supreme Court referred supra, we hold that fixing of the date of implementation of Grade Pay 2400 with effect from 01.04.2013 is incorrect and accordingly, the same is set aside and the first respondent is directed to extend the said benefit to the category of bailiffs with effect from 01.03.2011 and the same shall be paid to the beneficiaries within a period of 6 months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary, State of TamilNadu,
Home (Courts V) Department,
Fort St. George, Chennai-600 009.
2. The Registrar (General),
High Court of Judicature at Madras, Chennai.

- + 1 CC TO Mr.T.S.MOHAMMED MOHIDEEN, ADVOCATE IN SR No. 16745
- + 1 CC TO Mr.R.V.RAJKUMAR, ADVOCATE IN SR No. 17738
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 17047

JIKR

TE/SV-MMS : 10/04/2017 : 5P/6C

<https://hcservices.ecourts.gov.in/hcservices/>

ORDER MADE IN
W.P. (MD) No.2465 of 2014
22.03.2017