

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 03.08.2018

Delivered on: 29.10.2018

CORAM

THE HONOURABLE THIRU JUSTICE **V. PARTHIBAN**

W.P.No.18494 of 2013

T.L.Sundaram

.. Petitioner

versus

1. Tamilnadu Water Supply and Drainage Board,  
rep. by its Managing Director,  
No.31, Kamarajar Salai,  
Chepauk, Chennai-600 005.
2. The Superintending Engineer,  
Tamil Nadu Water Supply and Drainage Board,  
Salem-Namakkal Circle,  
11, Gandhi Road,  
Salem-7.
3. The Executive Engineer,  
Major Project Division,  
Tamil Nadu Water Supply and Drainage Board,  
74, Dharma Nagar 5th Street,  
Sooramangalam,  
Salem-5.

.. Respondents

Prayer: This Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, for the the records pertaining to the orders dated 27.2.2013 passed by the 3rd respondent in Proc. NO. F. Pay Fixation/EA1/2013-1 and in Proc. NO.F.Pay Fixation / EA/2013-2 quash the same in so far as fixing the petitioners pay band at Rs.9880 instead of fixing his band pay as Rs.10800 as on 1.1.2006 and consequently direct the respondents to revise his pay band as on 1.1.2006 as Rs.10800 by giving his correct fitment and fixation with arrears and other consequential benefits and also to pay him the revised terminal benefits by arriving at correct pay band as on the date of his retirement together with interest.

For Petitioner : Mr.N.G.R.Prasad for  
M/s.R.Krishnaswamy

For Respondents: Mrs.Narmadasampath, AAG  
assisted by Mr.M.Arokiyaraj  
for R1 to R3

## ORDER

The Writ Petition has been filed by the petitioner praying the following:

"To issue a Writ of Certiorarified Mandamus,  
for the the records pertaining to the orders dated

27.2.2013 passed by the 3rd respondent in Proc. NO. F. Pay Fixation/EA1/2013-1 and in Proc. NO.F.Pay Fixation/EA/2013-2 quash the same insofar as fixing the petitioner's pay band as Rs.9880 instead of fixing at Rs.10800 as on 1.1.2006 and consequently direct the respondents to revise his band pay as on 1.1.2006 as Rs.10800 by giving his correct fitment and fixation with arrears and other consequential benefits and also to pay him the revised terminal benefits by arriving at correct pay band as on the date of his retirement together with interest."

2. The petitioner joined the services of second respondent as Junior Assistant on 18.12.1985. On completion of 10 and 20 years of service, he was granted selection grade and special grade of pay in 1995 and 2005 respectively. After the grant of special grade, the petitioner was put in the pay scale of Rs.4300-100-6000 with effect from 16.11.2005. The Government of Tamil Nadu notified the Tamil Nadu Revised Scale of Pay Rules, 2009 vide G.O.Ms.No.234 Finance (Pay Cell) Department dated

01.06.2009 in pursuance of the recommendation of the VI Pay Commission and the revised scales of pay were implemented with effect from 1.1.2006. It was for the first time from 1.1.2006, the Government introduced Pay Band and Grade Pay system on par with the Central Government servants. According to the VI Pay Commission, the corresponding Pay Band of pay scale of Rs.4300-100-6000 was Rs.5200-20200 and it carries Grade Pay of Rs.2600.

3. The petitioner, on attaining the age of superannuation, retired from service on 21.10.2011. In the meanwhile, the Government has appointed One Man Committee to go into the demands of pay anomaly for the employees working as Junior Assistant/Typist/Assistant and Stenographer Grade-III, etc., under the ministerial service and pursuant to the Committee's recommendation, G.O.No.45 Finance (Pay Cell) Department dated 10.2.2011 was issued while retaining the same pay band, but revised grade pay for ordinary grade as Rs.2400 instead of Rs.2000. The revised pay scale in pursuance of

One Man Committee's recommendation, was implemented vide proceedings of the first respondent dated 12.12.2012.

4. The grievance of the petitioner is that while revising the grade pay, correspondingly, his pay band was not fixed as on 1.1.2006 since his pay band has been fixed only as 9880/-. According to the petitioner, once there is revision of pay which was implemented pursuant to the recommendation of One Man Committee, the pay band ought to have been correspondingly increased and the petitioner ought to have been granted pay band of Rs.10,800/- in terms of Fitment table annexed to various G.Os. and letters from 1.1.2006 instead of Rs.9880/- and since no action was forth coming, number of representations were submitted and finally, by proceedings dated 27.2.2013, the third respondent rejected the claim of the petitioner stating that the petitioner was not entitled to the fixation of pay band as claimed by him. The said rejection order is put to challenge in the present Writ Petition.

5. Mr.N.G.R.Prasad, learned counsel appearing for the petitioner would strenuously contend that the fixation of pay band in regard to the petitioner is concerned, was incorrect in view of the increase in pay on the basis of One Man Committee's recommendation and once there is increase in the pay, his pay band ought to have been increased to the next level, i.e. Rs.10,800/-. In support of his contentions, the learned counsel would draw the attention of this Court to the various Fitment tables enclosed along with the typed set of papers filed in support of the writ petition. But unfortunately, the learned counsel is unable to point out in clear terms as to how the claim of the petitioner for Rs.10,800/- towards increase of pay band is to be fixed on the basis of various Fitment tables relied upon by him. In fact, during the course of arguments, learned counsel for the petitioner literally suggested that if the petitioner is not entitled to Rs.10,800/-, he would be entitled to some increase in the pay band in view of the recommendation of One Man Committee and the

instructions issued by the Government vide letters dated 8.11.2010 and 10.2.2011. However, despite sufficient time is given to the learned counsel as to how and on what basis the claim could be considered by this Court, the petitioner was unable to clinchingly establish his claim with reference to various Fitment tables and G.Os. issued on the subject matters except stating that he was entitled to the enhancement of his pay band.

6. On the other hand, on behalf of the respondents, a detailed counter affidavit has been filed, stating that the fixation of pay band is correct in terms of the relevant instructions by the Government. The substance of resistance put up by the respondents as averred in the counter affidavit which found in paragraphs 7 to 10, is extracted hereunder:

"7. I respectfully submit that, the employees who got selection grade and Special grade prior to 01.01.2006 alone were granted with separate higher revised scale of pay for Selection Grade and

Special Grade. However, for the employees who were/are to get Selection Grade and Special after 01.01.2006 they were/ are given only one increment in existing revised scale of pay. This is the VI pay Commission recommendation, the petitioner cannot claim this.

"8. I respectfully submit that, the petitioner is insisting that he is eligible for the Special Grade pay scale 9300-34800 with Grade pay Rs.4400/- as found SI.No.9 of the Annexure-1 of the G.O.dated 08.11.2010. The same scale of pay with Grade pay has been fixed to this petitioner vide Proc.No.F/Pay commission/EA1/2013-1/dated 27.02.2013 hence the petitioner cannot claim the same benefit again.

"9. I respectfully submit that, the movement of Special Grade pay to this petitioner has been sanctioned and pay fixed at Rs.5100/- + P.P 5 % 210/- with effect from 15.11.2005 in the scale of pay Rs.4300-100-6000/-. The petitioner has represented that the fixation of pay should be only in the pay band Rs.10800/- instead of pay band fixed is Rs.9880/- vide this office Proc.No.F.Pay commission/EA1/2013-1 dated 27.02.2013. The pay has been fixed as per the fitment table communicated vide Board Proc.No.47237/E(Per) /A1/2012 dated 12.12.2012. The fixation of pay as

Rs.10800/- to Junior Assistant Special Grade is not correct.

10. I respectfully submit that, the pay to this petitioner has been fixed based on the fitment table communicated vide Board's Proc.No.47237/E(Per)/A1/2012 dated 12.12.2012. Hence, the petitioner's prayer could not be considered. Since the pay fixed to this petitioner is as per pay commission norms and it is in order."

7. Besides the counter affidavit, an additional counter affidavit has also been filed, wherein, once again the respondents have explained their stand in regard to the claim of the petitioner as averred in the paragraph 6, which is extracted hereunder:

"6. I respectfully submit that the Special Grade pay to this petitioner has been sanctioned and pay fixed at Rs.5100/- + P.P. 5% Rs.210/- with effect from 15.11.2005 in the scale of pay Rs.4300-100-6000/-. The petitioner has represented that the fixation of pay should be only in the pay Rs.10800/- instead of pay fixed at Rs.9880/- vide this

office Proc.No.F.Pay Commission/EA1/2013-1 dated 27.2.2013. The pay has been fixed as per the fitment table communicated vide Board Proc.No.47237/Estt.(Per)/A1/2012, dated 12.12.2012. The fixation of pay at Rs.10800/- to Junior Assistant Special Grade is not correct."

8. To further elucidate factual scenario in regard to the fitment of the petitioner's pay band, on behalf of the respondents, a statement has been filed to the following effect:

"Pay Particulars of Thiru.T.L.Sundaram Junior Assistant

Scale of Pay

Joined as Junior Assistant (AP) 610-20-730-25-955-30-1075  
on 15.11.1985

Junior Assistant (Selection Grade) 1200-30-1560-40-2040  
on 15.11.1985

Revised

4000-100-6000

Pay Fixations as on 01.01.1996 4000-100-6000

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| Pay       |        |      |
|-----------|--------|------|
|           | Jan-96 | 4000 |
| Increment | Oct-96 | 4100 |
| Increment | Oct-97 | 4200 |
| Increment | Oct-98 | 4300 |
| Increment | Oct-99 | 4400 |
| Increment | Oct-00 | 4500 |
| Increment | Oct-01 | 4600 |
| Increment | Oct-02 | 4700 |

|           |        |      |
|-----------|--------|------|
| Increment | Oct-03 | 4800 |
| Increment | Oct-04 | 4900 |
| Increment | Oct-05 | 5000 |

Junior Assistant (Spl. Grade) 15-11-2005 4300-100-6000  
 Junior Assistant (Spl. Grade) Pay fixation W.E.F.15.11.2005  
 5100-pp 5% 210

Revised Pay commission W.E.F 01.01.2006 G.O.Ms.No.234/dated  
 01.06.2009

Pay fixation as fixed 01.01.2006

old pay as received 5100+210pp5%

$5100+210=5310 \times 1.86=9876.6$  next ten rounded as  
 Rs.9880/-

Revised Pay 9880+2600 G.P. W.E.F.01.01.2006(Notional and  
 Monetary benefit 01.01.2007)

Again pay revised Selection Grade/Special Grade vide  
 Lr.No.63305/pay cell/2010-1 dated 08.11.2010 (One Man  
 Commission 2010) based on this ANNEXURE-1

Pay fixation as fixed 01.01.2006

old pay as received 5100+210pp5%

$5100+210=5310 \times 1.86=9876.6$  next ten rounded as  
 Rs.9880/-

Revised Pay 9880+2600 G.P. W.E.F.01.01.2006(Notional and  
 Monetary benefit 01.01.2007)"

9. According to the above statement, the learned

Addl.Advocate General appearing for the respondents would  
 submit that the pay band of the petitioner has been fixed

correctly in terms of various G.Os. and instructions issued by the Government. During the course of arguments, it was also brought to the knowledge of this Court on behalf of the respondents that a similarly placed employee, one Mr.T.S.Ravichandran who was also working along side the petitioner herein, was placed admittedly on higher pay band of Rs.5400/- as against the petitioner's pay band of Rs.5100/- and his personal pay was Rs.230/- against the petitioner's personal pay of Rs.210/- and pay band was granted at Rs.10,480 as against the petitioner's pay band at Rs.9880/-. According to the learned Addl.Advocate General, the said T.S.Ravichandran had the benefit of one extra benefit in view of his higher qualification. Therefore, it is submitted on behalf of the respondents that if the claim of the petitioner is accepted that he would be entitled for the pay band of Rs.10,800/-, he would over take said T.S.Ravichandran in the matter of fixation of pay band. In fact, the said T.S.Ravichandran has not raised any issue regarding his fixation of pay band. That being the case, it is not fair for the

present petitioner to seek claim of fixation of higher pay band than what is due to him. The learned Addl. Advocate General would further submit that nowhere in the affidavit or in the documents, the petitioner was able to establish in clear terms as to how his claim of Rs.10800/- towards pay band was supported by any materials or calculation. According to the learned Addl. Advocate General, the petitioner has been claiming different pay bands without having any clarity on his claim and such claim need not be entertained by this Court since it is not supported by any material whatsoever.

10. During the course of arguments, it was also brought to the knowledge of this Court as to how the calculation has been done by drawing analogy with equivalent grade, namely, special grade, wherein, an illustration is given in Annexure II to the Government Letter dated 8.11.2010. The said illustration is reproduced as under:

"ANNEXURE – II

## ILLUSTRATION –I

A Special Grade Village Health Nurse was drawing a basic pay of Rs.5,200/- in the pre-revised Special Grade scale of pay of Rs.4300-100-6000 as on 31-12-2005. The revised scale of pay admissible with effect from 1-1-2006 is Rs.5200-20200 + Grade Pay of Rs.2,600/-. The scale of pay of the post of Village Health Nurse (Ordinary Grade) has been revised from Rs.5200-20200 + Grade Pay of Rs.2,000/- to Rs.5200-20200 + Grade Pay of Rs.2,400/- based on the recommendations of One Man Commission (vide orders issued in G.O.Ms.No.297, Finance (Pay Cell) Department, dated:26-08-2010). Consequent on the revision of Ordinary Grade scale of pay of Village Health Nurse, the revised Special Grade scale of pay of Village Health Nurse is Rs.9300-34800 + Grade Pay of Rs.4,400/- notionally with effect from 1-1-2006 with monetary benefit from 1-1-2007. Hence, her pay may be fixed as follows:--

|    |                                                                                                                                                  |                     |             |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|-------------|
| 1) | Pay in the pre-revised scale of pay in the post of Special Grade Village Health Nurse.                                                           | : Rs.5200/-         |             |
| 2) | Pay to be fixed in the revised scale of pay of Special Grade Village Health Nurse.                                                               | : Rs.5,200 x 1.86 = | Rs. 9,672/- |
|    |                                                                                                                                                  | : Rounded to        | Rs.9,680/-  |
|    |                                                                                                                                                  | : Grade Pay         | Rs.4,400/-  |
|    |                                                                                                                                                  | Total               | Rs.14,080/- |
| 3) | Pay fixed in the revised pay scale ( Prior to OMC revision ) as on 1-1-2006 in the scale of pay of Rs. 5,200 – 20,200 + Grade Pay of Rs. 2,600/- |                     | Rs.12,280/- |
|    |                                                                                                                                                  | Difference          | Rs. 1,800/- |

11. According to the learned Addl. Advocate General, the above illustration will hold good for the petitioner as well and therefore, the pay band of the petitioner was correctly fixed and he cannot have any legitimate complaint against such fixation of pay band.

12. At this, the learned counsel appearing for the petitioner would object by stating that once the pay has been increased, the natural corollary and consequence of such increase would be increase in the pay band and it stands to logic that the pay band cannot remain static when the pay has been increased. But unfortunately, on behalf of the petitioner, as stated earlier, it has not been established as to how the fixation of pay band as Rs.10,800/- could be arrived at. In fact, in one paragraph of the affidavit filed by the petitioner, there was a claim of pay band of Rs.10,800/- however, during the course of arguments, the learned counsel for the petitioner would state that the pay band that was given to T.S.Ravichandran, namely, Rs.10,400/- is acceptable to the petitioner. From this, it is clear that the petitioner is very

unclear as to what he is entitled to except harping on the issue of increase in the pay band. On the other hand, on behalf of the respondents, it was established that the pay band has been correctly fixed in terms of the illustration as extracted above and also in terms of various letters and instructions issued by the Government on the subject matter. One clinching material document in favour of the respondents is that what was given to T.S.Ravichandran who was identically placed as that of the petitioner, which document was filed by the petitioner himself in the typed set of papers. On behalf of the petitioner, it was not able to point out as to how the petitioner can stake higher pay band fixation than T.S.Ravichandran who was admittedly drawing higher pay band than the petitioner and at the relevant time, the only answer that was submitted before this Court is that the said T.S.Ravichandran was not before this Court. However, this Court is of the considered view that in the absence of any clinching material in support of the claim of the petitioner, this Court is unable to give any relief to the petitioner.

Unfortunately, the impugned order passed by the 3rd respondent is also not clear about the fixation of pay band to the petitioner except rejecting his claim by non-speaking order. Though strenuous arguments were advanced on either side both by the learned counsel for the petitioner and the learned Addl. Advocate General, this Court is unable to take a call in the matter since it is not able to find any basis for enhancing the pay band of the petitioner to Rs.10,800/-.

13. From the arguments advanced on behalf of the petitioner, it appears that all the petitioner was interested was for some increase in his pay band. In fact, a tabular statement was also filed on behalf of the petitioner, but from the said tabular statement, this Court is unable to come to any definite conclusion since this Court does not find any legal basis for such fitment except repeated assertion by the petitioner. Even during the course of arguments, this Court was unable to find a definite stand taken on behalf of the petitioner, as it was varying by placing reliance on different fitment tables. But at the end of the day, it appears that the

petitioner was not able to establish a clear case for grant of relief. All the efforts taken on behalf of the petitioner ended in vain, since the basis of the claim of the petitioner was rather nebulous and uncertain and upon such shaky basis, this Court cannot grant the relief as prayed for to the petitioner.

14. For the above said reasons, this Court is unable to appreciate the claim of the petitioner. Therefore, the Writ Petition fails and it is dismissed. No costs.

15. Be that as it may, it appears from the impugned order that the concern of the petitioner has not been addressed by the 3rd respondent in detail with reference to the various fitment tables relied upon by the petitioner in support of his claim. The impugned order is a non-speaking one. Although the counter affidavit and additional counter affidavit have been filed with statement of fixation of grade pay on behalf of the respondents, which were already extracted by this Court supra and also dealt with in detail, but in order to give a benefit of doubt to the petitioner, the competent authority/3rd respondent is directed to pass a detailed order

in regard to the claim of the petitioner. While taking a decision, the competent authority need not be influenced by any of the observations made by this Court while dismissing the writ petition. The authority shall take an independent view and pass a detailed order with reference to various instructions issued by the Government on the subject matter. It is made once again clear that the dismissal of the writ petition need not stand in the way of the authority deciding the claim of the petitioner. The petitioner is also directed to submit a detailed representation to the 3rd respondent/competent authority in this regard and if any such representation is made, the 3rd respondent/competent authority shall take a well considered decision on the same and pass detail order as expeditiously as possible within a reasonable time.

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29-10-2018

Index: Yes/No

Internet: Yes/No

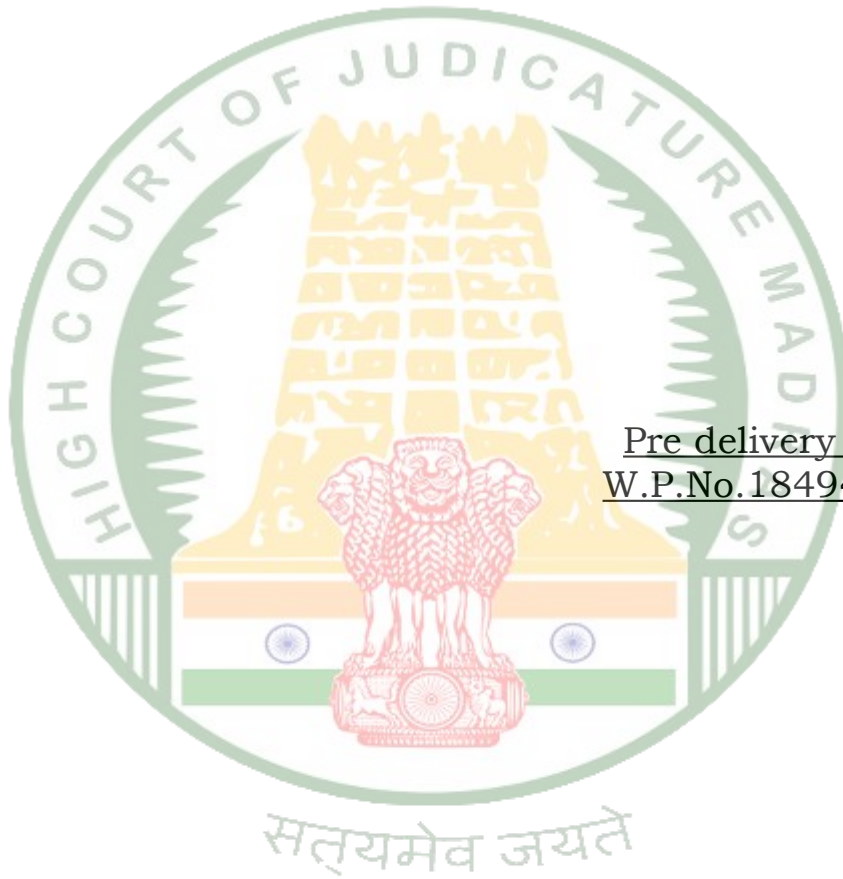
To

1. Tamilnadu Water Supply and Drainage Board,  
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V.PARTHIBAN, J.

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Pre delivery Order in  
W.P.No.18494 of 2013

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29-10-2018

**W.P.No.18494 of 2013****V.PARTHIBAN,J.,**

This matter has been listed today under the caption “for being spoken” at the instance of the learned counsel for the petitioner.

2. It is submitted by the learned counsel for the petitioner that by order dated 29.10.2018, this Court has dismissed the writ petition. However, this Court has further directed the third respondent to pass a detailed order in regard to the claim of the petitioner and while taking a decision, the competent authority need not be influenced by any of the observations made in the order.

3. According to the learned counsel for the petitioner, since this Court has dismissed the writ petition, the competent authority may not be inclined to consider the claim of the petitioner on merits, despite the direction of this Court and therefore, the learned counsel seeks modification of the order dated 29.10.2018.

4. Considering the submission made by the learned counsel for the petitioner, this Court modifies the paragraph No.14 of the order, as under:-

*“14. For the above said reasons, the writ petition is disposed of with the following direction. No costs.”*

**V.PARTHIBAN,J.,**  
gsk

5. Likewise, in paragraph No.15, the words “dismissing the writ petition” and “dismissal of the writ petition” may be substituted by the words “disposing the writ petition” and “disposal of the writ petition” respectively.

6. Therefore, Registry is directed to make necessary modification and issue a fresh order copy to the learned counsel appearing for the parties.

20.11.2018

gsk

**Note: Issue order copy on 23.11.2018.**



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**W.P.No.18494 of 2013**