

In the High Court of Judicature at Madras

Reserved on	27.11.2018
Pronounced on	17.12.2018

Coram:

The Hon'ble Mr.Justice M.VENUGOPAL
and
The Hon'ble Mr.Justice R.PONGIAPPAN

W.P.No.2073 of 2018

D.Venkatesan

..Petitioner

Vs.

1. The Registrar General,
High Court of Madras,
Chennai - 600 104

2. The Principal District Judge,
Vellore District,
Vellore

3. The Accountant General [A & E]
Tamil Nadu Circle,
361, Anna Salai, Teynampet,
Chennai - 600 018

..Respondents

Prayer: Writ Petition filed under Article 226 Constitution of India to issue a Writ of Mandamus by directing the 2nd Respondent herein to make necessary rectification in the Petitioner's Service Book, by correcting the Petitioner's designation as Typist and confer Grade Pay of Typist and Typist Grade-I Post on completion of 18 years of service in the Typist Post i.e., with effect from 09.09.2001 onwards and consequently, the Petitioner's pay scale may be refixed accordingly and send the revised pension proposal for conferring revision of pension and payment of arrears and other consequential benefits within a reasonable time.

For Petitioner : Mr.R.S.Anandan
Mrs.Shakila Anand

For Respondents : Mr.M.Baskar for R1 and R2
Mr.V.Vijay Shankar for R3

O R D E R

M.VENUGOPAL, J.

Heard both sides.

Writ Facts:

2. According to the Petitioner, as per G.O.Ms.No.664 Finance (Pay Cell) Department dated 24.08.1992, Personal Pay of 5% of the basic pay has been granted to all the categories of staff in the pre-revised scale of pay of (i) Rs.475-775 to revised scale of pay of Rs.775-1030 ; (ii) Rs.610-1075 to revised scale of pay of Rs.950-1500 or Rs.975-1660; (iii) Rs.705-1230 to revised scale of pay of Rs.1200-2040; (iv) Rs.905-1545 to revised scale of pay of Rs.1600-2660. Further that, the personal pay ought to be computed as on 01.08.1992 and will be continued in the event of promotion within these categories. That apart, the Government in G.O.Ms.No.1193 Home [Courts V] Department dated 07.08.1995 had accepted the order passed in W.P.No.12737 of 1994 whereby a direction was issued to Judiciary Department to revise the scale of pay of the Readers and Examiners from Rs.825-1200 to Rs.975-1660 on par with Junior Assistant with selection grade of pay of Rs.1200-2040 with effect from 01.06.1988.

3. Further, it is represented on behalf of the Petitioner that based on the order in W.P.No.20156 of 2000, W.P.No.13143 of 2000 dated 10.03.2006, the personal pay of 5% issued in terms of G.O.Ms.No.664 Finance (Pay Cell) Department dated 24.08.1992, was directed to be extended to all the Court Employees viz., Head Clerk, Central Nazir, Sheristadar of the Judicial Department, as per Government Letter No.48129 Fin [CMPC]/2007-1 dated 10.08.2007.

4. Continuing further, the stand of the Petitioner is that as per numerous orders passed in W.P.No.6619 of 1995 dated 24.08.2007, W.P.No.8818 of 2008 dated 13.10.2009 and W.P.(MD) Nos.9459 of 2010., etc., batch cases dated 01.03.2011, similarly placed individuals, who are entitled to receive 5% personal pay as mentioned in G.O.Ms.No.664 Finance [Pay Cell] Department dated 24.08.1992 and as amended by substitution in G.O.Ms.No.873 Finance [Pay Cell] Department dated 27.12.1993 were ordered to be paid 6% interest in respect of delayed payments.

5. Indeed, the order in W.P.(MD) No.9459 of 2010 etc., batch cases, were directed to be implemented by the 1st Respondent / Registrar General, High Court, Madras, as per the order of the Principal Secretary to Government Finance (CMPC) Department in Letter No.33730 / CMPC / 2011-1 dated 19.07.2011. Since the Petitioner had worked in the same cadre as Copyist and Typist, he is entitled to claim such benefits.

6. The categorical stand of the Petitioner is that he is entitled to revise the pay scale of Rs.975-25-1150-30-1660 with effect from 01.06.1988. Besides this, he is entitled to 5% personal pay with effect from 01.08.1992, as per G.O.Ms.No.664 Finance [Pay Cell] Department dated 24.08.1992. In as much as the pay scales are to be revised and he be showered with the Selection Grade Typist scale with effect from 01.01.1995 and Special Grade Typist Scale with effect from 01.01.2005 and the resultant pay commission revision of pay scale till his superannuation on 31.07.2010. Moreover, his pensionary benefits are also to be revised and the arrears and pay scales ought to be paid with interest at 6% per annum.

Petitioner's Contentions:

7. The Learned Counsel for the Petitioner submits that the Petitioner had addressed a Representation dated 11.03.2013 to the 3rd Respondent / the Accountant General (A&E), Tamil Nadu Circle, Chennai - 18 through the 2nd Respondent / Principal District Judge, Vellore and the same was not forwarded to the 3rd Respondent / the Accountant General [A&E], Tamil Nadu Circle, Chennai - 18, but the same was returned with an endorsement that since the W.P.Nos.7112 to 7117 of 2011 are pending before the High Court, a direction was issued to submit an application after disposal of the Writ Petitions.

8. The Learned Counsel for the Petitioner projects an argument that the Petitioner filed W.P.No.21295 of 2013 before this Court praying for passing of an order by this Court in issuing suitable direction to the 2nd Respondent to send his revised pension proposal to the 3rd Respondent / Accountant General [A&E] Tamilnadu by conferring the pay scale of Rs.975-1200 with effect from 01.06.1988 and to refix the pay scales in the post of Typist and confer 5% personal pay with effect from 01.08.1992 and refix his pay scales till his retirement on 31.07.2010 in the post of Special Grade Typist to enable the 3rd Respondent to revise his pensionary benefits and to confer the arrears of pay and pensionary benefits with interest at the rate of 6% per annum within a reasonable time.

9. The Learned Counsel for the Petitioner brings it to the notice of this Court that in W.P.No.5819 of 2014 the issue to grant Personal Pay 5% to the Senior Bailiff came up for consideration and by an order dated 11.11.2014, this Court has passed the following order:

"6. This issue was earlier considered by a Division Bench of this Court in W.P.(MD) No.8818 of 2008. The Writ Petition was allowed by order dated 13.10.2009 and a direction was issued to extend the benefits of the Government Order in G.O.Ms.No.664/Fin/(PC) Dept. dated 24.08.1992 to the members of Tamilnadu Judicial Senior

Bailiff's Association. The said order was followed by the First Bench in W.P.MD.No.7387 of 2011. The petitioner is also similarly situated. Therefore, he is also entitled to the benefits of the Government orderin G.O.Ms.No.664/Fin/(PC) Dept. dated 24.08.1992." and resultantly allowed the Writ Petition.

10. The Learned Counsel for the Petitioner contends that the 3rd Respondent / Accountant General's Office sent a communication to the Petitioner on 08.02.2016 based on the letter of the Petitioner dated 11.01.2016 for implementation of the Order passed by the High Court by conferring revision of Pensionary Benefits. The service book of the Petitioner along with revised proposals were directed to be re-transmitted to the 3rd Respondent's Office through Department duly making revised entry from 01.01.2006 to 31.07.2010 stating the name of the post held by the official, under proper attestation for further action. As a matter of fact, the 3rd Respondent's office sent another communication to the Petitioner on 24.08.2016 stating the Petitioner's service book with proposals was returned to the 2nd Respondent / Principal District Judge, Vellore. In this connection, the Learned Counsel for the Petitioner points out that in the communication of the 3rd Respondent dated 08.02.2016, it was mentioned that if the Petitioner had worked as Typist on 01.01.2006, then, G.O.(Ms). No.45 Personnel and Administrative Reforms (Per-B) Department dated 15.02.1994 is admissible to which monetary benefits from 01.02.2011.

11. The Learned Counsel for the Petitioner points out that the 3rd Respondent in the letter dated 24.08.2016 addressed to the 2nd Respondent / Principal District Judge, Vellore had stated as under:

"After a thorough scrutiny of service book of Shri D.Venkatesan PPO No.R0203127 it is seen that in page 18 of the last vol of service book the post of the official noted as copyist only and not as typist. Though as per G O 903 dt 09/08/1994 rw G O 1006 dt 03.07.2007 the post of copyist merged with typist, as per latest G O 261 dt 22/07/2012 the gradepay hiked from 2000 to 2400 for copyist from 01/01/2006 notionally and monetary benefits from 01/04/2013 only. After the issue of G O 261 previous G Os will become null and void. Though in W.P.21295 of 2013 the post of official noted as typist the entry in service book only be taken in to account for admitting pensionery benefits. Hence monetary benefits from 01/02/2011 is not applicable to the official and only G O 261 is admissible.

12. The Learned Counsel for the Petitioner proceeds to point out that the Petitioner joined the service as 'Peon' by direct recruitment through Employment Exchange on 08.08.1975 and that he was promoted to the post of 'Process Server' in the year 1982 and further promoted to the post of 'Copyist' in the year 1983 with effect from 09.09.1983 and in fact, the then post of Copyist was merged with the post of 'Typist' with effect from 15.09.1993. Further more, the Petitioner was conferred with the Selection Grade Typist Scale with effect from 01.01.1995 and Special Grade Typist Scale with effect from 01.01.2005 and he retired voluntarily from service on health ground with effect from 31.07.2010.

13. The Learned Counsel for the Petitioner contends that in December, 1989, the High Court, Madras sent a proposal for revision of Scale of Pay of Copyists on parity with Typists and a similar recommendation was made with regard to the Examiners and Readers and further that, based on the recommendation of Pay Commission, for grant of pay of scale of Rs.975-1660, the technical qualifications of Copyists etc., were to be raised. In fact, the Government issued G.O.Ms.No.1400 Home [Courts V] Department, dated 15.09.1993 raising technical clarification of Copyists prescribing same qualification, as specified for Typists.

14. The Learned Counsel for the Petitioner refers to the G.O.Ms.No.903 Home [Courts V] Department dated 09.08.1994, whereby Government of Tamilnadu raised the scale of pay of 'Copyists' from Rs.825-1200 to Rs.975-1660 with effect from 15.09.1993, which is a scale of pay of the Typists.

15. It is represented on behalf of the Petitioner that subsequently, G.O.Ms.No.774 dated 02.06.1999 was issued by the Government of Tamilnadu [Home [Courts V] Department] wherein the scale of pay of Copyists was enhanced to Rs.975-1660 with effect from 01.06.1988, and that from 01.06.1988, Typists, Copyists, Readers, Examiners and Junior Assistants were provided with common scale of pay of Rs.975-1660 with similar qualification. The Government had issued a letter dated 08.05.1998, addressed to the Registrar, High Court by issuing a clarification that after the merger of 'Copyist' with 'Typist', no post of Copyist will be available and also clarified that those copyists merged as typists are eligible for the promotion to the post of 'Assistant' on par with Typist and that the service rendered by the Copyists should be counted for the purpose of granting selection grade and special grade and accordingly, the Petitioner was conferred with the Selection Grade and Special Grade.

16. Moreover, it is contended on behalf of the Petitioner that the Petitioner should be given the benefits of G.O.Ms.No.45

Personnel and Administrative Reforms [Per.B] Department, dated 15.02.1994 by conferring Typist Grade-I on completing 18 years of service from 09.09.1983, i.e., with effect from 09.09.2001 onwards and as such, the Pay of Scale may be refixed accordingly and the revised pension proposal is to be sent by the 2nd Respondent for conferring revision of pension and payment of arrears and other resultant benefits. Therefore, the Petitioner has filed the present Writ of Mandamus praying for passing of an order by this Court in directing the 2nd Respondent / Principal District Judge, Vellore to make necessary rectification in the Petitioner's service book, by correcting his designation as 'Typist' and confer Grade pay of Typist and Typist Grade-I Post on completion of 18 years of service in the Typist post, i.e., with effect from 09.09.2001 onwards and consequently, his pay may be refixed accordingly and the revised pension proposal to be sent for conferring Revision of Pension, Payment of Arrears and other consequential benefits within a reasonable time to be determined by this Court.

Submissions of Respondent Nos. 1 and 2:

17. In response, the Learned Counsel for the Respondents 1 and 2 submits that the post of Copyist was merged with that of Typist with effect from 03.07.2007, as per proceedings of the 1st Respondent in R.O.C.No.3004/1994/G2 dated 06.08.2007 and hence the Petitioner is entitled to the benefits for the post of 'Typist' with effect from 03.07.2007. Further, the Learned II Additional District Judge, Ranipet had sent a report to the Office of the 2nd Respondent dated 08.12.2017 stating that the Hon'ble High Court had granted only 5% Personal Pay to the Writ Petitioner and that no direction was issued in W.P.No.21295 of 2013 dated 16.12.2014 to re-designate the post of Writ Petitioner as Typist Grade I.

18. The Learned Counsel for the Respondents 1 and 2 contends that the post of Copyist was merged with the post of Typist as on 03.07.2007 in terms of R.O.C.No.3004/1994/G2 of High Court dated 06.08.2007 and further that the scale of pay of Copyist was revised to the post of Typist only as on 03.07.2007.

19. The Learned Counsel for the Respondents 1 and 2 points out that G.O.Ms.No.45, Personnel and Administrative Reforms [Per.B] Department dated 15.02.1994 does not apply to the Petitioner and further, in Paragraph No.5 of the said Government Order, it is mentioned as under:

"5. The Government also direct that newly created posts of 'Typist -Grade I' shall be filled up by the holders of the post of Typist who have put in a total 18 years of regular service as Typist and opted to remain in the Typist line, by the method of promotion. This shall be done after obtaining necessary sanction

order creating the posts of Typist Grade-I by each Head of Department."

20. The Learned Counsel for the Respondents 1 and 2 brings it to the notice of this Court that there is only one post of Typist, which was upgraded as 'Typist Grade-I in Vellore District [Earlier known as North Arcot Ambedkar District] as per G.O.Ms.No.669 Home [Courts V] Department dated 24.04.1996 and that the same was filled up by promotion from the qualified staff working in the cadre of Typist according to their merit, ability and seniority. Added further, the post of Typist Grade-I, held by S.R.Ganesan from 08.08.1997 to 30.06.2000, N.Samptathkumar held the said post from 02.08.2000 to 30.11.2005 and M.Wilson held the post of Typist Grade I Post from 20.06.2014 to 30.06.2014.

21. It is projected on the side of the Respondents 1 and 2 that the aforesaid three staff members, who had completed 18 years of service in the post of 'Typist' was promoted as Typist Grade-I in the upgraded post, according to their merit, ability and seniority. In fact, the Writ Petitioner has prayed to confer him the post of Typist Grade I with retrospective effect from 09.09.2001, which is impermissible because of the reason only one post of Typist Grade-I available in Vellore District was occupied by the aforesaid staff members. In reality, the single post of Typist Grade I is not to be occupied by the two Typists at a time.

22. The Learned Counsel for the Respondents 1 and 2 contends that the Writ Petitioner had relinquished his right of promotion permanently in the post of 'Copyist' and the same was accepted as per proceedings of the 2nd Respondent / Principal District Judge, Vellore dated 15.10.1996. In this regard, the Learned Counsel for the Respondents 1 and 2 refers to the G.O.Ms.No.1793 Home [Courts V] Department dated 10.12.1997 issued by the Government of Tamilnadu in and by which an Amendment to Rule 49 of Tamilnadu Judicial Ministerial Service was issued and Sub-Rule (2) of Rule 49 reads as under:

"(2) Relinquishment of a right or privilege for a temporary period shall be accepted if it is made for a period of not less than three years subject to the condition that after the expiry of the said period, the claim of the right or privilege relinquished will be with reference to the state of affairs that exist on the date of expiry of period of relinquishment and without restoration of Original Seniority. If relinquishment of right or privilege is made permanently and is accepted, subsequent claim of the relinquished rights or privileges shall not be entertained."

23. The Learned Counsel for the Respondents 1 and 2 submits that after the merger of post of Copyist with that of Typist with effect from 03.07.2007, as per the proceedings of the High Court in R.O.C.No.3004/1994/G2 dated 06.08.2007, the seniority list was prepared and the Petitioner's name was in Sl.No.65, which was faraway from M.Wilson, formerly Typist Grade-I in Principal District Court, Vellore, who was lastly promoted as Typist Grade I in the year 2014. As such, the Writ Petitioner, who is far Junior to the said M.Wilson is not eligible for promotion to the post of Typist Grade I.

24. The Learned Counsel for the Respondents 1 and 2 contends that since the Petitioner has relinquished his right of promotion in the post of Copyist permanently, he shall not be considered for promotion in the post of 'Typist' prior to the merger of the post of Copyist, viz., 03.07.2007. It is projected on behalf of the Respondents 1 and 2 that notwithstanding the fact that the Petitioner was served as Copyist with effect from 09.09.1983, he was treated as Typist only from the date of merger of post of Copyist viz., 03.07.2007 in accordance with the proceedings of the High Court dated 06.08.2007. As such, the Writ Petitioner's Service is to be taken into consideration from 03.07.2007 for the promotion to the post of Typist Grade I and hence, he is not entitled to claim the post of Typist Grade I. Therefore, the Writ Petitioner had not completed the qualified service in the post of Typist, as per G.O.Ms.No.45, Personnel and Administrative Reforms (Per.B) Department dated 15.02.1994, issued by the Government of Tamilnadu.

25. The Learned Counsel for the Respondents 1 and 2 emphatically points out that only one post of Typist Grade I sanctioned to Vellore District, as per G.O.Ms.No.669 Home [Courts V] Department dated 24.04.1996 was occupied by the senior most Typist of the District from 08.08.1997 to 30.11.2005 and hence there was no possibility to confer the Petitioner as Typist Grade I as on 09.09.2001.

Petitioner's Reply Pleas :

26. In the Rejoinder of the Petitioner dated 19.03.2018, the Petitioner contends that he had completed 18 years of service on 01.01.2003 and that the person, who continued in the Typist line should be conferred with Typist Grade - I Post, as per G.O.Ms.No.45 Personnel and Administrative [Per.B] Department dated 15.02.1994 and the said order is applicable to him and he should be conferred with Typist post as and when the vacancy arose, as per Seniority with effect from 01.12.2005 and after retirement of his two seniors.

27. The Learned Counsel for the Petitioner contends that the Petitioner gave up his right of promotion permanently from the

Copyist Post only in the year 1996 and in fact, he was conferred with Pay scale of Typist while submitting the relinquishment of promotion itself and during that time, the post of Copyist itself was not in existence, as the same was deleted from the Rule, as per Amendment made in G.O.Ms.No.562 Home [Court V] Department dated 13.05.1998 with retrospective effect from 15.09.1993.

28. The Learned Counsel for the Petitioner takes a stand that the Petitioner had only prayed for Typist Grade I Post on completion of 18 years of service in the post of Copyist / Typist and that he never sought for next promotion as 'Assistant'. Further, when the Petitioner has served as Typist from 15.09.1993 after Amendment to Tamilnadu Judicial Ministerial Service Rules, he ought not be denied the benefits of Grade Pay with effect from 01.02.2011.

Response of Respondent Nos.1 and 2:

29. In the Additional Counter Affidavit filed by the 2nd Respondent / Principal District Judge, Vellore dated 21.06.2018 [For the Rejoinder filed by the Petitioner] it is mentioned that the Government of Tamilnadu brought an Amendment to Rule 21-A of Tamilnadu Judicial Ministerial Service, as per G.O.Ms.No.562 Home (Courts V) Department dated 13.05.1998 and accordingly, the Rule 21-A of Tamilnadu Judicial Ministerial Service Rules, which was inserted, as per G.O.Ms.No.1400 Home [Courts V] Department dated 15.09.1993 alone was omitted. But the Petitioner takes an incorrect stand that the post of Copyist was deleted with retroactive effect from 15.09.1993. However, the Petitioner is taking a wrong stand that the post of Copyist was deleted with retrospective effect from 15.9.1993. As a matter of fact, the post of Copyist comes in Class V of Tamilnadu Judicial Ministerial Service Rules and the post of Copyist was never deleted from the Tamilnadu Judicial Service, prior to the merger of the post with effect from 03.07.2007. Besides this, the time scale of pay of the Post of Copyist alone was revised equivalent to the post of Typist, as per G.O.Ms.No.903 Home [Courts V] Department dated 09.08.1994 and the Petitioner had served as Copyist till 02.07.2007, viz., prior to the date of merger of post with that of Typist and owing to the merger of the post, the Writ Petitioner has acted as Typist with effect from 03.07.2007 in accordance with the proceedings of the High Court dated 06.08.2007. In short, the time scale of pay of Copyist is equivalent to the post of Typist with effect from 15.09.1993.

30. The Learned Counsel for the Respondents 1 and 2 contends that consequent to the merger of the post of Copyist with that of Typist, the Petitioner was listed in Serial No.65 in the Seniority List maintained by the 2nd Respondent's Office, which was circulated among the staff members once in the year

and the same was communicated to all the staff members working in the Vellore District including the Petitioner by an Office Memorandum in Dis.No.345/2009 dated 21.01.2009 with an instruction to submit his grievance, if any. However, no representation was received from the Petitioner although the aforesaid Official Memorandum was circulated to the Petitioner.

31. The Learned Counsel for the Respondents 1 and 2 submits that on the Petitioner's own volition, he had acted as Copyist till 03.07.2007 by relinquishing his rights for promotion and since the Petitioner had served as Typist from 03.07.2007 to 31.07.2010, he had failed to fulfill the eligibility requirement, as per ingredients of G.O.Ms.No.45 Personnel and Administrative Reforms [Per.B] Department dated 15.02.1994, the Petitioner is not entitled to claim the relief, as sought for by him in the Writ Petition.

The Stand of Respondent No.3:

32. The Learned Counsel for the 3rd Respondent submits that based on the clarifications issued by the Finance [P.C.] Department in Letter No.26535/Pay Cell/2013-1 dated 17.04.2014, the 5% Personal Pay granted to the Petitioner with effect from 01.08.1992 was taken into account for the purpose of fixation pay and pensionary benefits, which was revised for a last drawn pay of Rs.12,590+Grade Pay of Rs.4,200/- + Special Pay of Rs.160/- by the 3rd Respondent's office, as per Rules.

33. Further, the 3rd Respondent's office issued authorisations for pensionary benefits based on the Proposals / Entries of pay regulation in Service Register in terms of relevant Pension Rules and that it is for the 2nd Respondent / Principal District Judge, Vellore to make authenticate entries to carryout corrections, if any and forward the proposals to the 3rd Respondent's Office.

Analysis:

34. At the outset, it is to be pertinently pointed out that although the Writ Petitioner worked as 'Copyist' from 09.09.1983, the post of Copyist merged with that of Typist with effect from 03.07.2007, in terms of the proceedings of the High Court in R.O.C.No.3004/1994/G2 dated 06.08.2007. As a matter of fact, G.O.Ms.No.45, Personnel and Administrative Reforms [Per.B] Department, dated 15.02.1994 speaks of 'Creation of New Category -Typist Grade-I' in Tamilnadu Judicial Ministerial Service. Indeed, Paragraph Nos.5 and 6 of the aforesaid Government Order reads as under:

"5. The Government also direct that newly created posts of 'Typist -Grade I' shall be filled up by the holders of the post of Typist who have put in a total

18 years of regular service as Typist and opted to remain in the Typist line, by the method of promotion. This shall be done after obtaining necessary sanction order creating the posts of Typist Grade-I by each Head of Department.

6. The Government further direct that the Typists, who have completed 18 years of service as Typist, shall be allowed to exercise an option either to remain in the 'typist line' or to go for promotion as Assistant, within one month from the date of issue of this order, and such option, once exercised shall be final and irrevocable."

35. It is to be remembered that the 'Copyist Establishment' was attached to the II Additional District Court, Ranipet from that of the Subordinate Court, Ranipet, as per the order of the High Court in R.O.C.No.618/2015/G3 dated 07.09.2015, hence, the Petitioner projected a representation in writing dated 13.12.2016 to the 3rd Respondent / Accountant General (A&E), Chennai [through the Learned II Additional District Judge, Ranipet-proper channel] whereby and whereunder a request was made to enter his designation as Typist Grade-I in his service Register and to grant him the revised pensionary benefits from 01.02.2011 to 31.03.2013.

36. It cannot be lost sight of that in Vellore District, the post of 'Typist' was upgraded as Typist Grade I in terms of G.O.Ms.No.669 Home [Courts V] Department dated 24.04.1996 and that the 2nd Respondent had taken a plea in the present Writ Petition that one S.R.Ganesan was promoted and joined as Typist Grade I [from the post of Typist] with effect from 08.08.1997 to 30.06.2000. That apart, N.Sampathkumar, worked as Typist Grade I for the period from 02.08.2000 to 30.11.2005. Likewise, one M.Wilson, worked as Typist-Grade I from 20.06.2014 to 30.06.2014. In reality, the aforestated three staff members had completed 18 years of service for the post of 'Typist' and promoted as 'Typist Grade I' in the upgraded post, of course, based on their merit, ability and seniority. To put it precisely, two individuals cannot occupy a 'Solo Post' of Typist-Grade I. More importantly, the Petitioner in the instant Writ Petition has sought for conferment of Typist Grade I upon him, from 09.09.2001 in a 'Retroactive Manner'.

37. It comes to be known that the Petitioner as Copyist, District Court, Vellore was permitted to relinquish his right of promotion permanently [based on his application dated 07.10.1996], as per proceedings of the 2nd Respondent / Principal District Judge, Vellore dated 15.10.1996.

38. It may not be out of place for this Court to make a relevant mention that Rule 49(2) of the Tamilnadu Judicial Ministerial Service Rules in and by which the Relinquishment of right of privilege for a temporary period shall be accepted, if it is made for a period not less than three years subject to the condition that after the expiry of the said period, the claim of the right or privilege relinquished will be with reference to the State of affairs that exist on the date of expiry of the period of relinquishment and without restoration of original seniority. Furthermore, if the relinquishment of right or privilege is made permanently and is accepted, subsequent claim of relinquished rights or privileges shall not be entertained. Viewed in that perspective, it is crystalline clear that the Petitioner cannot lay a claim for promotion to the post of Typist Grade-I.

39. One cannot brush aside a vital fact that the Government of Tamilnadu resting upon the Order dated 21.08.2006 in W.P.(MD) Nos.2553 to 2955, 3598 and 4495 of 2005 had issued orders in G.O.Ms.No.1006, Home (Cts.V) Department dated 03.07.2007 merging the post of 'Copyist' in the Tamilnadu Judicial Ministerial Service with that of 'Typist' in the said service. As a logical corollary, the Writ Petitioner's promotion is to be taken into account from 03.07.2007 in terms of the proceedings of the High Court in R.O.C.No.3004/94/G2 dated 06.08.2007 for promotion to the post of Typist Grade I, even though he served as 'Copyist' from 09.08.1983.

40. Coming to the aspect of the ingredients of G.O.Ms.No.45 Personnel and Administrative Reforms (Per.B) Department dated 15.02.1994, it is to be mentioned that the Petitioner had not fulfilled the requirement of putting in a total 18 years of regular service as 'Typist' etc., as envisaged by the said Government Order. Added further, the Petitioner served as Typist only for three years from 03.07.2007 to 31.07.2010 and retired voluntarily from service on the afternoon of 31.07.2010. The fact of the matter is that since the Petitioner had relinquished his right of promotion to the post of Typist from the post of Copyist permanently, he was not considered for promotion.

41. The 3rd Respondent / the Accountant General (A&E) Tamilnadu Circle, Chennai had revised the pay of the Petitioner for the purpose of pensionary benefits and accordingly, his last drawn pay was fixed at Rs.12,590/-+Grade Pay of Rs.4200/-+ Special Pay of Rs.160/- after taking into consideration of the clarifications by the Finance (P.C) Department in Letter No.26535/Pay Cell/2013-1 dated 17.04.2014. In fact, 5% Personal Pay was given to the Petitioner from 01.08.1992.

42. Be that as it may, on a careful consideration of respective contentions, in the upshot of detailed qualitative and quantitative discussions and also this Court considering the attendant facts and circumstances of the instant case in a conspectus manner, comes to an inescapable and irresistible conclusion that the Petitioner is not entitled to claim the reliefs sought for by him in the Writ Petition. Looking at from any angle, the Writ Petition sans merits.

In fine, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssd

To

1.The Registrar General,
High Court of Madras,
Chennai - 600 104

2.The Principal District Judge,
Vellore District,
Vellore

3.The Accountant General [A & E]
Tamilnadu Circle,
361, Anna Salai, Teynampet,
Chennai - 600 018

+1cc to Mr.V.Vijay Shankar, Advocate, S.R.No.88727

+1cc to Mr.R.S.Anandan, Advocate, S.R.No.88498

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