

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.07.2018

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.23557 of 2007
and
M.P.No.1 of 2007

K.Thulasi raman

.. Petitioner

Versus

1. State of Tamilnadu, rep.by its
Secretary to Government,
Agriculture Department,
Chennai - 9

2. The Director of Horticulture,
Chepauk, Chennai - 5.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorarified mandamus, to call for the records, pertaining to the letter No.29757/AA7/05-03. dated 18.01.2006 passed by first respondent as communicated by the letter endorsement A/3590 03 dated.....04.2007 and quash the same and direct the respondents to revise the pay of the petitioner by stepping-up.

For Petitioner

: Mr.P.Ganesan

For Respondents

: Mr.K.Ravikumar

Additional Government Pleader

O R D E R

The petitioner filed a writ petition challenging the order dated 18.01.2006 and the same was communicated to the petitioner on 04.04.2006 and direct the respondents to revise the pay of the petitioner by stepping up as per Rule 4(3) of the Tamilnadu Revised Scales of Pay Rules 1989.

2. The case of the petitioner is that the petitioner joined as Steno-Typist Grade-3 in the year 1980 and promoted as Assistant on 17.03.1986. The first respondent issued orders equating the post of Assistant and revised the scale of stenotypist post in G.O.Ms.No.372, Finance Department dated 02.05.1994, with retrospective effect from 01.06.1988 notionally and 01.08.1992 effectively. Further, the special pay attached to the post of Steno-Typist has also been merged with effect from 01.08.1992.

3. Thus, by the 5th pay commission the post of steno-typist is equal to the post of Assistant. Since the petitioner was working in the post of Assistant from 1988 and he continued to work in the said post, as per Rule 7 Tamil Nadu Revised Scales of Pay Rules 1989.

4. Accordingly, he made a request to the authorities in this regard. However, the petitioner's request was rejected, challenging the same, the present writ petition is filed.

5. The respondents filed a counter particularly in paragraphs 9 and 10 as follows:-

9. With regard to the ground (1) of the affidavit, it is submitted that when he got his promotion from the post of Steno Typist (Selection Grade) in the scale of pay of Rs.610-20-730-25-955-30-1075 to the post of Assistant carrying the scale of pay of Rs.705-20-745-25-845-35-1230 on 17.03.1986, he has exercised his option to fix his pay in the promoted post and his pay fixed according to his option on 17.04.1986. His pay fixation once exercised is final and cannot be revised as per G.O.Ms.No.1075, Personnel and Administrative Reforms Department, dated 12.11.1982.

10. With regard to the ground (2) of the affidavit, it is submitted that as per Tamil Nadu Revised Scale of Pay Rules, 1989 issued in G.O.No.666, Finance (PC) Department, dated 27.06.2010 he has given his option dated 27.07.1989. Here also the option exercised by him is final. Thereafter, as per G.O.Ms.No.162, Finance (PC) Department, dated 13.04.1998 as per the Tamil Nadu Government Revised Scale of Pay Rules, 1998, he has furnished his option vide his letter No.Nil dated 29.04.1998 and here also the option exercised by the individual cannot be revised.

6. A perusal of the above, discloses that the petitioner exercised option on 17.04.1986 in promoted post. Once he

exercised his option it became final. It can not be revised in view of G.O.Ms.No.1075, Personnel and Administrative Reforms Department, dated 12.11.1982. When the petitioner exercised option in the year 1986, filing of the W.P., after 7 years without any proper explanation is not sustainable one.

7. In view of the above, I do not find any merit in the writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamilnadu,
Agriculture Department,
Chennai - 9
2. The Director of Horticulture,
Chepauk, Chennai - 5.

+1cc to the Government Pleader, S.R.No.48085

W.P.No.23557 of 2007 and
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VSN II(CO)
GSP(25/09/2018)

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