

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

W.P.No.13113 of 2002

D.Soosairaj

... Petitioner

Vs

1. Union of India, rep. By its
Secretary to Government,
Petroleum Department,
New Delhi.
 2. The General Manager,
Indian Oil Corporation,
Ennore High Road,
Tondiarpet, Chennai - 18.
 3. The Senior Plant Manager,
Indian Oil Corporation Ltd,
Lube Plant, Ennore High Road,
Tondiarpet, Chennai - 18.
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to grant increment to the petitioner herein a sum of Rs.350/- P.M in the basic wages from the year 1996 and also direct the respondents to promote the petitioner to the post of IV - Grade from the year 2000 onwards as was granted to his junior Mr.R.G.Sudarsan.

For Petitioner : Mr. G.Muthukrishnan

For Respondents : Mr.J.Madhanagopal Rao
ACGSC for R1
Mr.T.S.Gopalan & Co for R2 & R3

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to grant increment to the petitioner herein for a sum of Rs.350/- per month, in the basic wages from the year 1996 and also direct the respondents to promote the petitioner to the post of IV - Grade from the year 2000 onwards as was granted to his junior Mr.R.G.Sudarsan.

2. The short facts which leading to file this writ petition is that, the petitioner had entered into service in the second respondent Corporation (Indian Oil Corporation) as casual labour as a Kalasi in the year 1976. Thereafter, he was regularised in the post of Kalasi in the year 1982. His educational qualification was E.S.L.C. He was promoted as Senior Operator as per the order dated 19.09.1997 with effect from 01.04.1997. Prior to said promotion, he was, in fact, given promotion as Junior Chageman Technical Lube Plant as per the order dated 04.09.1996, but the said order was not accepted by the petitioner and that it had not entered upon. Thereafter, he was promoted as Senior Operator (Field) with effect from 01.04.1997 in the Cluster - A in the Workman Grade - III in the scale of pay Rs.2,408 - Rs.4,378 as per the order of the second respondent dated 19.09.1997.

3. In this regard, the grievance of the petitioner is that even though one of the junior of the petitioner, one R.G.Sudarsan, who had also put in service like the petitioner, had drawn higher pay than the petitioner. In this regard, according to the petitioner, there had been a pay difference between the petitioner and the said Sundarsan for a sum of Rs.350/- per month. Therefore in order to rectify the same to bring the petitioner with his junior by making an increment of Rs.350/- per month, the petitioner had given a representation to the second and third respondents on 09.07.2001. Since, the said representation had not been considered, the petitioner approached this Court by filing this writ petition.

4. Since the writ petition is pending for long time, during the pendency of the writ petition, the petitioner retired from service on superannuation long back.

5. In this regard, now the only request made by the learned counsel appearing for the petitioner is that, if the said representation dated 09.07.2001, made by the petitioner, is directed to be considered by the second and third respondents on merits and in accordance with law and the present plea of the petitioner is accepted and the pay anomaly is rectified, the petitioner would be satisfied.

6. The learned Standing Counsel appearing for second and third respondents would submit that, since the said representation was submitted long back i.e., during the year 2001 and thereafter the petitioner has been retired from service on his superannuation, the said issue raised 17 years back cannot be re-agitated now.

7. I have considered the submissions made by Mr.G.Muthu krishnan, learned counsel for the petitioner and Mr.J.Madhanapopal Rao, learned Additional Central Government Standing counsel appearing for the first respondent and also the learned standing counsel appearing for the second and third respondents and perused the materials placed before this Court.

8. The petitioner had given the representation dated 09.07.2001, to rectify the pay anomaly, to the second and third respondents and the said representation was not considered. Therefore, the petitioner approached this court. However, during the pendency of this writ petition, the petitioner retired from service on his superannuation. Merely because the petitioner retired from service, his legitimate request made earlier, while he was in service, cannot be said to become infructuous, as the service benefits claimed by an employee will be a continuous cause of action and even after retirement on superannuation, the same can be agitated. Moreover, in this case, the petitioner had approached this Court at the earliest point of time, i.e., in the year 2003. Merely, the writ petition was pending before this court for all these years, the lawful right of the petitioner cannot be defeated.

9. In the result, this Court is inclined to pass the following order in this writ petition : The second and third respondents are directed to consider the petitioner's representation dated 09.07.2001, with regard to his grievance of pay anomaly and consider the same on merits and in accordance with law and decide the plea therein raised by the petitioner as per the existing rule, which was prevailing at the time of the petitioner working at the second respondent Corporation and if the second and third respondents come to the conclusion that the petitioner has to be given the pay revision, the same shall be calculated and be paid to the petitioner. The aforesaid action as indicated above shall be undertaken by the second and third respondents within a period of eight weeks from the date of the receipt of a copy of this order.

10. With these directions, the writ petition is disposed of. No order as to costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rts/mp

To

1. Union of India, rep. By its
Secretary to Government,
Petroleum Department,
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Tondiarpet, Chennai -18.

+1cc to Mr.G.Muthukrishnan , Advocate SR.No.56737

+1cc to Mr.T.S.Gopalan , Advocate SR.No.56614

+1cc to Mr.J.Madhanagopal Rao , Advocate SR.No.56280

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ASK(20/09/2018)



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