

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.10.2018

CORAM

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.28454 of 2018

A.Kandasamy

....Petitioner

Vs

1. Government of Tamil Nadu,
representation by Secretary to Government,
Transport Dept.,
Secretariat, Chennai - 600 009

2. The Director,
Institute of Road Transport,
Tharamani, Chennai - 600 113

3. The Principal,
Institute of Road Transport Technology,
Erode 638 316

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to refix the pay of the petitioner in the Selection Grade at Rs.9300-34800 + G.P.Rs.4200/- from 01.01.2006 notionally with monetary benefits from 01.01.2007 and disburse the consequential monetary benefits with interest for the delayed payments.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.D.Suriyanarayanan,
Additional Government Pleader
for R1

ORDER

The case of the petitioner is that he is working as Driver under the second respondent and having no promotional avenues as such he was allowed Selection Grade Driver before the Sixth Pay Commission came into force. After coming into force of the Fifth Pay Commission report, the petitioner was expecting to get salary fixed in the new scale extending him the benefit of the selection grade. However, the petitioner's scale has not

been fixed in that manner. The petitioner in this regard made several representations, to which the second respondent indicated that they will take action after receipt of the clarification of the first respondent. But no action on such representation the first representation dated 24.08.2016 followed by another representation dated 10.12.2017, he came to file the writ petition seeking direction to the respondents to pay the petitioner in the selection grade in the revised scale of pay presented by One Man Commission, which was especially to look into the anomaly of the Sixth Central Pay Commission implemented in respect of employees working under the State Government. The petitioner therefore has come to this Court seeking the relief as stated earlier.

2. The learned counsel appearing for the petitioner, submits that the petitioner was already a Selection Grade Driver. He had no promotional facility. In the Sixth Pay Commission, it was specifically indicated that the persons who are also in the similar category having no promotional avenues, are entitled to the said scale. Accordingly, the petitioner was legitimately expecting the pay revision from the respondents, moreso as he was in the Selection Grade by the time the pay revision in question came into existence, in the revised pay selection grade. But no action on the same having been taken he came to file the writ petition. In view of the limited nature of relief sought for by the petitioner, the same be disposed of at the stage of admission without seeking reply affidavit from the respondents, submits the learned counsel for the petitioner.

3. Though reply affidavit has not been filed, the learned counsel appearing for the first respondent, however submits that the claim of the petitioner is without any substance. The same has also been raised at a very belated stage. Therefore this Court should not entertain the same. However, he submits that if this Court decide to give a direction to the respondents, the same should be for consideration of such representation in a time bound manner and no fetter be put on the respondents to consider such representation in any particular manner.

4. Regard being had to the facts and submissions made, especially the fact the petitioner was intimated the proposal has been furnished to the State Government and on receipt of such intimation, his case shall be considered, this Court is of the view that the prayer of the petitioner cannot be defeated on the ground as advanced by the learned counsel for the respondents that his claim is devoid one. So also from the materials available on record, it appears that the legal obligation is there on the part of the respondents to consider such representation, but such representation having not been addressed to, this writ petitioner is entitled to the relief

sought for. Accordingly, this Court dispose of this writ petition with a direction to the second respondent without any reply affidavit, to consider the representation of the petitioner made in this regard in its own merit and dispose of the same by a reasoned order, within a period of six weeks from the date of receipt of a copy of this order, if there is no other legal impediment.

5. With the aforesaid order, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Government of Tamil Nadu,
Transport Dept.,
Secretariat, Chennai - 600 009
2. The Director,
Institute of Road Transport,
Tharamani, Chennai - 600 113
3. The Principal,
Institute of Road Transport Technology,
Erode 638 316

+1cc to Mr.M.Ravi, Advocate SR.No.74663

+1cc to Government Pleader SR.No.74894

PP(CO)

GMV(03/12/2018)

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