

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.32312 of 2018

S.Radhai

.. Petitioner

Vs.

1. The Registrar General,
High Court of Judicature at Madras,
Chennai-104.
2. The Chief Metropolitan Magistrate,
Allikulam Complex, Moore Market,
Chennai-03.
3. The Accountant General,
Teynampet,
Chennai-18.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the Second Respondent in connection with the impugned order passed by her in Dis.No.2674/18, dated 30.10.2018 and quash the same and further direct the Respondents to fix the pay as per G.O.291, dated 26.08.2010 and to grant the revision of scale of pay and arrears and to revise the pension within reasonable time. सत्यमेव जयते

For petitioner : Mr.S.Sivakumar

For Respondents : Mr.B.Vijay for RR-1 and 2
Mr.V.Vijay Shankar, CGSC for R-3

ORDER

(The Order of the Court was made by M.Venugopal, J)

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to call for the records of the Second

Respondent in connection with the impugned order passed by her in Dis.No.2674/18, dated 30.10.2018 and quash the same and further direct the Respondents to fix the pay as per G.O.291, dated 26.08.2010 and to grant the revision of scale of pay and arrears and to revise the pension within reasonable time.

2. Heard both sides and perused the materials available on record. No counter affidavit is filed on behalf of the Respondents.

3. According to the petitioner, she entered into service as Estate Clerk (AGOT) on 17.07.1981 through Employment Exchange and promoted as Examiner on 10.08.1989 and as Junior Assistant on 16.02.2000. By merit and seniority, she was further promoted as Assistant on 28.07.2003 and as Interpreter on 08.05.2012 and was allowed to retire under Voluntary Retirement Scheme (VRS) on 30.11.2012 and her service is meritorious throughout and there are no adverse remarks.

4. The stand of the petitioner is that the Government had constituted an Official Committee to examine and make necessary recommendations for the revision of scales of pay and allowances of the State Government employees based on the decision of the Central Government on the recommendations of the Sixth Central Pay Commission. Pursuant to the Government Order, the Official Committee had submitted its report on 27.05.2009 and the Government, after careful examination, took a decision and issued the order, vide G.O.Ms.No.234, Finance (PC) Department, dated 01.06.2009.

5. Added further, numerous representations and petitions were received from different individuals and Heads of Department and Associations, stating that there is an anomaly while implementing the recommendations of the Official Committee for revision of scales of pay of certain categories. Therefore, the Government had constituted an One Man Commission to examine the anomalies if any and after careful examination, the Government had decided to accept the recommendations of the One Man Commission and issued the Government Order, vide G.O.Ms.No.291, Finance (Pay Cell) Department, dated 26.08.2010 in respect of certain categories of Judicial Department. Indeed, the scales of pay of the following posts was revised as under:

Sl. No.	Name of the Posts	Existing scale of pay + Grade Pay Rs.	Revised scale of pay + Grade Pay Rs.
(1)	(2)	(3)	(4)
1	Private Secretary	9300 - 34800 + 4700	15600 - 39100 + 5400
2	Interpreters	9300 - 34800 + 4700	15600 - 39100 + 5400
3	Overseer	9300 - 34800 + 4400	9300 - 34800 + 4600

6. The Learned Counsel for the Petitioner submits that the Respondents have not chosen to extend the benefit of the said G.O.Ms.No.291, and as such, the Petitioner was perforced to approach in person and prayed for extending the benefits of the said G.O.Ms.No.291, Finance (Pay Cell) Department, dated 26.08.2010 and to fix the scale of pay. However, the endeavour has proved futile.

7. The Learned Counsel for the Petitioner brings it to the notice of this Court that a similarly situated person, namely K.Srimathi filed W.P.No.12374 of 2018 before this Court and the same was disposed of by this Court on 05.06.2008 with directions being issued therein.

8. In fact, the Second Respondent/Chief Metropolitan Magistrate had considered the claim and fixed the said K.Srimathi's salary as per the Government Order, vide Dis.No.5564/2018A, dated 14.08.2018.

9. While that be the fact situation, the Second Respondent had passed the impugned order in respect of the present Writ Petition stating that the pay band has not been matched with the existing scale and the similarly situated person's claim was considered based on the order of this Court. Hence, the Petitioner has filed the present Writ Petition for the relief stated supra.

10. In this connection, it is not out of place for this Court to make a pertinent mention that in W.P.No.12374 of 2018, dated 05.06.2018 between K.Srimathi Vs. The Registrar General, High Court of Judicature at Madras, Chennai-104, at paragraph 9, this Court had observed the following and disposed of the said Writ Petition:

"9. The primordial grievance of the Petitioner is that her Representation dated 04.11.2017 is to be considered by the Second Respondent as per G.O.Ms.No.291, Finance (Pay Cell) Department, dated 26.08.2010, so that she can avail the benefits showered upon by the State Government Order etc. The request of the Petitioner in this regard, in the considered opinion of this Court, is well founded. Hence, this Court deems it fit and proper in directing the Second Respondent/Chief Metropolitan Magistrate, Allikulam Complex, Moore Market, Chennai-03, to look into the Representation of the Petitioner, dated 04.11.2017, with all seriousness and earnestness and to pass appropriate orders in a fair, free, just and dispassionate manner within a period of three weeks from the date of receipt of copy of this order. It is open to the Second Respondent to provide an opportunity of hearing to the Petitioner, if she so desires/situation so warrants and the Petitioner can avail the same.

With the above observation and directions, the writ petition is disposed of. No costs."

11. In response, the Learned Counsel appearing for the Respondent Nos.1 and 2 submits that the said G.O.Ms.No.291 applies to Interpreters of the Honourable High Court and the same is not applicable to the petitioner. In this regard, a clarification letter dated 19.10.2010 in Letter No.74308/Cts.V/2010-2, of the Home (Cts.V) Department, Secretariat, Chennai-9, addressed by the Joint Secretary to Government to the First Respondent/Registrar General of this Court, and as such, the Petitioner is not entitled to claim the relief which he seeks for.

12. At this stage, this Court, on a perusal of the impugned order, dated 30.10.2018 passed by the Second Respondent/Chief Metropolitan Magistrate, is of the earnest opinion that the Second Respondent had observed the following and returned the application:

"It is further informed that on consideration of the above facts and as per the Order of the Hon'ble High Court, Madras

directing the Chief Metropolitan Magistrate, Egmore at Allikulam Complex, Chennai-3, to fix the pay to Tmt.K.Srimathy only. The individual Tmt.K.Srimathy's application was considered. Beyond the order of the Hon'ble High Court, Madras, the Chief Metropolitan Magistrate, Egmore at Allikulam Complex, Chennai-3 cannot consider the applications submitted by the individuals.

Hence, your applications are returned."

13. It is to be pointed out that after issuance of G.O.Ms.No.291, Finance (Pay Cell) Department, dated 26.08.2010, relating to the revision of scale of pay of certain categories in Judicial (other than the High Court) Department, the Joint Secretary to Government, Home (Cts.V) Department, Secretariat, Chennai-600 009, had issued clarificatory Letter in Letter No.74308/Cts.V/2010-2, dated 19.10.2010 addressed to the Registrar General, High Court, Chennai-104, which reads as under:

" 2. In this connection I am directed to clarify that the revision of scale of pay for the post of Private Secretary in the G.O. first cited (G.O.Ms.No.291) relates to the posts in the Government litigations department and in the case of Interpreters and Overseers it relates to the posts in High Court of Madras and its Madurai Bench.

3. I am therefore directed to inform you that the orders issued in the G.O. first cited (G.O.Ms.No.291) revising the scale of pay of Interpreters and Overseers based on the recommendations of the one man commission 2010 is applicable only to the posts in High Court Service."

14. In fact, the Petitioner in her Representation, dated 24.10.2018, addressed to the Respondent Nos.1 and 2 mentioned that the Government had sanctioned supporting staff, vide G.O. (Ms).No.176, Home (Courts-II) Department, dated 28.02.2018, wherein also the scale of pay was determined insofar as the Interpreters as Rs.15600-39100+5400 and prayed for fixation of her pay in the post of Interpreter in the said scale of pay.

15. Indeed, the said Government Order in G.O.(Ms).No.176, Home (Courts-II) Department, dated 28.02.2018, at paragraph-3, reads as under:

"3. After careful examination, the Government have decided to accept the proposal of the Registrar General, High Court of Madras. Accordingly, the Government sanction the following supporting staff for the 4 Additional Masters in High Court of Madras, 4 Additional Judges (Recording Evidence) in City Civil Courts, Chennai and 2 Additional Judges (Recording Evidence) in Small Causes Court, Chennai at a recurring expenditure of Rs.2,29,15,272/-.

Sl. No.	Name of the Post	Sanctioned by the Government			Scale of pay (pre-revised)
		High Court of Madras	City Civil Court, Chennai	Small Causes Court, Chennai	
1	Interpreter	4	4	2	15600-39100+GP 5400 + Spl. Allowance of Rs.100/- p.m.
2	Assistant Section Officer	4	-	-	9300-34800+GP 4600
3	Assistant	-	4	2	5200-20200+GP 2800
4	Typist	4	4	2	5200-20200+GP 2400 Spl. Pay of Rs.160/- p.m.
5	Office Assistant	4	4	2	4800- 10000+GP1300
	Total	16	16	8	

16. It comes to be known that the First Respondent/Registrar General of High Court of Madras, in Roc.No.1461/A/2011/G2, dated 12.10.2018, had addressed a communication to the Additional Chief Secretary to Government, Home (Cts.IV) Department, Secretariat, Chennai-9, wherein, it is inter-alia mentioned as under:

"In this connection, I am to state that the High Court, while recommending the proposal to the Government, among other things, has uniformly mentioned the scale of pay for the post of Interpreter in the High Court service as well as in the City Civil

Courts and the Court of Small Causes, Chennai as Rs.15600-39100+GP 5400+Spl.Allowance of Rs.100/- p.m. (pre-revised), whereas the said scale of pay is applicable only to the post of Interpreter in High Court Service and not to the Interpreters in Subordinate Courts. The Interpreters in City Civil Courts and Small Causes Courts are eligible only to draw the scale of pay of Rs.9300-34800+GP 4800/-.

In view of the above, I am to request that necessary amendment to G.O.(Ms).No.176, Home (Courts-II) Department, dated 28.02.2018, in respect of the scale of pay for the post of Interpreter in the City Civil Court, Chennai and the Court of Small Causes, Chennai as Rs.9300-34800+GP 4800/- instead of Rs.15600-39100+GP5400+Spl.Allowance of Rs.100/- p.m. (pre-revised), may be obtained and communicated to the High Court, at the earliest."

17. Be that as it may, on a careful consideration of the respective contentions and also this Court taking note of the attendant facts and circumstances of the case in an integral fashion, at this juncture, simpliciter, directs the Second Respondent/Chief Metropolitan Magistrate, Chennai, to look into the representation of the Petitioner, dated 24.10.2018 with all seriousness and earnestness, especially with reference to G.O.Ms.No.291, Finance (Pay Cell) Department, dated 26.08.2010; the Letter in No.74308/Cts.V/2010-2, dated 19.10.2010 issued by the Joint Secretary to Government, Home (Cts-V) Department, to the First Respondent/Registrar General of High Court, Madras; G.O.(Ms).No.176, Home (Courts-II) Department, dated 28.02.2018 and a communication in Roc.No.1461/A/2011/G2, dated 12.10.2018 of the First Respondent/Registrar General of High Court of Madras, addressed to the Additional Chief Secretary to Government, Home (Cts-IV) Department, Secretariat, Chennai-9, in the subject matter in issue, in a complete, comprehensive and threadbare fashion in true letter and spirit and to pass necessary reasoned speaking order, on merits (if there is no legal impediment in this regard), in qualitative and quantitative terms, of course, in a fair, free, just, unbiased and dispassionate manner, within a period of three weeks from the date of receipt of a copy of this order (with a copy being marked to the Principal Accountant General (Accounts and Entitlements), Teynampet, Chennai, for favour of information and necessary follow-up action, if any). It is open to the Second Respondent/Chief Metropolitan Magistrate, Chennai to provide an opportunity of hearing to the Petitioner and air her views, if she so desires/if the situation so warrants, and the Petitioner can utilise the same.

18. With the aforesaid observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

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Sub Assistant Registrar

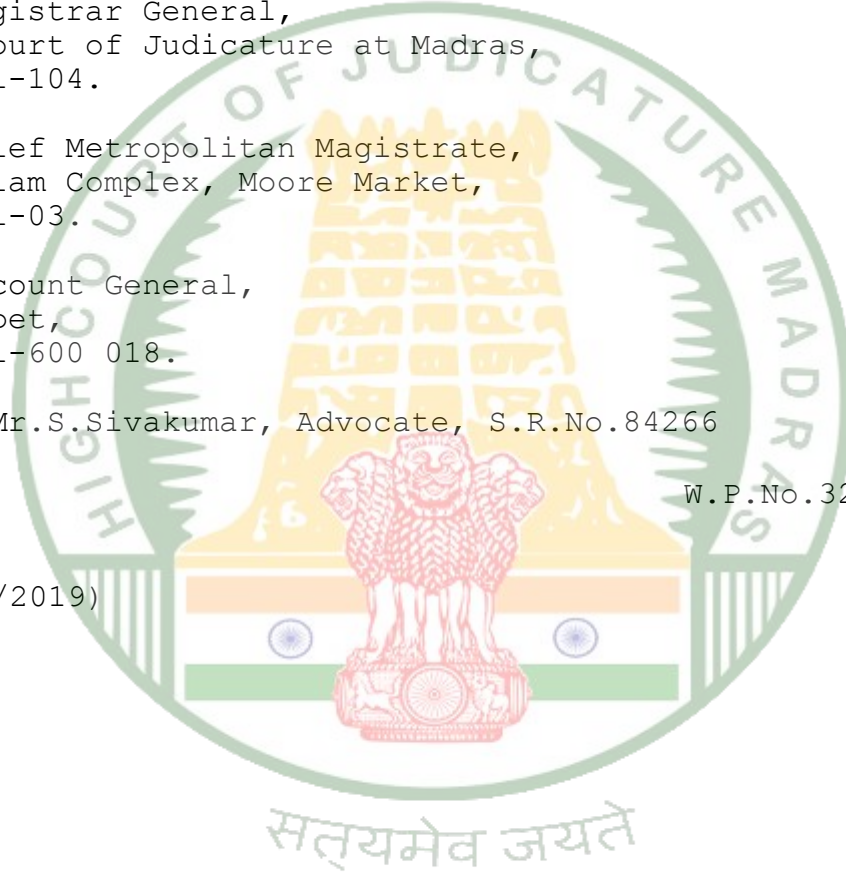
To

1. The Registrar General,
High Court of Judicature at Madras,
Chennai-104.
2. The Chief Metropolitan Magistrate,
Allikulam Complex, Moore Market,
Chennai-03.
3. The Account General,
Teynampet,
Chennai-600 018.

+ 1cc to Mr.S.Sivakumar, Advocate, S.R.No.84266

W.P.No.32312 of 2018

cp (CO)
SSM(02/01/2019)



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