

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.Nos.16629 to 16633 of 2010
and WMP Nos.38602 to 38605 of 2016

Judgment reserved on 01.08.2019	Orders pronounced on 29.08.2019
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K.Jayavelu ...Petitioner in WP No.16629 of 2010
T.N.P.W.D.Employees Association
Rep.by its General Secretary
R.Srinivasan ...Petitioner in WP No.16630 of 2010
R.Srinivasan ...Petitioner in WP No.16631 of 2010
M.Veerassamy ...Petitioner in WP No.16632 of 2010
A.Alphonse ...Petitioner in WP No.16633 of 2010
Vs.

1.The Secretary to Government
Finance Department,
Fort St. George,
Chennai - 9.

2.The Special Secretary to Government
Finance (CMPC) Department
Fort St. George,
Chennai - 9.

3.The Principal Secretary to Government
Public Works Department
Chennai - 9.

4.The Engineer in Chief (W.R.O.) and
Chief Engineer (General)
Public Works Department
Chepauk, Chennai - 5.

...

Respondents in all Writ Petitions

PRAYER in WP No.16629 of 2010 ; WP.NO.16632/10:

Writ Petition is filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records connected with letter No.55838/CMPC/1999-1 dated 20.10.1999 passed by the 2nd respondent and quash the same and further direct the respondents to revise the petitioners' scale of pay of Work Inspectors Grade II as Rs.1200-30-1560-40-2040 and the consequent revision at Rs.1400-40-1600-50-2300-60-2600 for Work Inspectors Grade-I in the ordinary scale of pay with effect from 01.06.1988 with consequential revisional benefits in the subsequent fixation also.

PRAYER in WP No.16630 of 2010:

Writ Petition filed under Article 226 of the Constitution of India Praying for issuance of a Writ of Ceritorarified Mandamus Calling for the records connected with Letter No.55838/CMPC/1999-1 dt.20.10.1999 passed by the 2nd respondent and quash the same and further direct the respondents to revise the scale of pay of Work Inspectors Grade-II as Rs.1200-30-1560-40-2040 and the consequent revision of Rs.1400-40-1600-50-2300-60-2600 for Work Inspectors Grade-I in the ordinary scale of pay with effect from 1.6.1988 with consequential revision and modification in the subsequent fixation on par with the Work Inspector Grade-II of TWAD Board.

PRAYER in WP No.16631 of 2010; WP.NO.16633/10:

Writ Petition filed under Article 226 of the Constitution of India Praying for issuance of a Writ of Ceritorarified Mandamus Calling for the records connected with Letter No.55838/CMPC/1999-1 dt.20.10.1999 passed by the 2nd respondent and quash the same and further direct the respondents to revise the scale of pay of Work Inspectors Grade-II as Rs.1200-30-1560-40-2040 with effect from 1.6.1988 with consequential benefits on par with the Work Inspectors of TWAD Board.

In all WPs

For Petitioner : Mr.M.Doraisamy,
Senior Counsel for
M/s.S.Arunachalam Associates

For Respondents : Mr.S.R.Rajagopal,
Additional Advocate General
Assisted by Mr.R.S.Selvam
Government Advocate

COMMON ORDER

In all these writ petitions, the issue raised is one and the same and hence they are disposed of by this common order.

2. Writ Petition No.16630 of 2010 is filed by T.N.P.W.D. Employees Association represented by its General Secretary and other writ petitions are filed by individual employees. It is sufficient to refer the averments in the writ petition No.16629 of 2010 to decide the issue in all the writ petitions.

3. All the petitioners and members of TNPWD Employees Association are employees of Public Works Department. According to the petitioners, originally, Public Works Department (hereinafter referred to as PWD) was doing number of works like Public Health Engineering Works, constructing and maintaining Government Roads, bridges and government buildings, dams, etc. For construction and maintenance, necessary estimates are prepared for completing specific works. While preparing the estimates, the salary for 134 categories of employees are charged in the work estimates itself and such type of employees are called as "work charged employees". Subsequently, the said works were entrusted to different Boards. The work maintaining Water Supply and Sewage was entrusted to Tamil Nadu Water Supply and Drainage Board (hereinafter referred to as TWAD Board) The TWAD Board was created by special enactment called Tamil Nadu Water Supply and Drainage Act, 1971.

3(a) Initially, the employees of PWD were transferred to TWAD Board. The work of Work Inspectors

in PWD and TWAD Board are identical and responsibilities are one and the same. While so, the TWAD Board revised the scale of pay for Work Inspectors Grade II as 1200-2040 w.e.f 01.06.1988 in TWAD Board, as per the order of this court dated 07.03.1997 made in W.P.No.5002 of 1990 and W.P.No.16096 of 1991. By this revision, the persons working as Work Inspectors Grade II in PWD were paid less salary than Work Inspectors Grade II in TWAD Board. The T.N.P.W.D. Employees Association made representation dated 24.02.1998 to the first respondent requesting to implement the scale of pay to the Works Inspectors Grade II and consequently to Grade I who are working in PWD. The Association filed O.A.No.3005 of 1999 before the Tamil Nadu Administrative Tribunal as the first respondent did not pass any orders on the representation dated 24.02.1998. The Tamil Nadu Administrative Tribunal, by its order dated 18.06.1999 directed the first respondent to dispose of the representation given by the Association. The second respondent, by letter No.55838/CMPC/99-1 dated 20.10.1999 rejected the claim of the Association.

3(b) Against the said order of rejection, the Association, represented by its General Secretary A.Alphonse filed O.A.No.993 of 2000 before Tamil Nadu Administrative Tribunal. At the time of hearing, the standing counsel for the respondents conceded that order dated 07.03.1997 passed in W.P.Nos.5002 of 1990 and 16096 of 1991 is applicable to the members of the Association who are working in PWD. The Tribunal, by its order dated 01.07.2002 allowed O.A.No.993 of 2000. The respondents filed W.P.No.45230 of 2002 challenging the order of the Tribunal dated 01.07.2002 made in O.A.No.993 of 2000. The Division Bench of this Court, by order dated 08.12.2005, allowed the writ petition by setting aside the order of the Tribunal dated 01.07.2002. The Association preferred appeal in C.A.No.1620 of 2007 before the Hon'ble Apex Court challenging the order of this Court dated 08.12.2005 made in W.P.No.45230 of 2002. The Hon'ble Apex Court disposed of the appeal by setting aside the order of this Court as well as Tribunal and remanded the matter back to the Tribunal for hearing the matter on merits by giving opportunity to the Association to adduce fresh evidence.

3(c) By the time the matter was remanded to the Tamil Nadu Administrative Tribunal, the said Tribunal was abolished. O.A.No.993 of 2000 was transferred to the file of this Court and was re-numbered as W.P.No.4911 of 2010. This Court, by order dated 18.03.2010 dismissed the writ petition as withdrawn as the writ petition filed by the Association is not maintainable. This Court further held that withdrawal of the writ petition will not disentitle either the petitioner or the petitioner's Association to move the appropriate forum for appropriate relief. Now, the petitioners and Association have come up with the present writ petitions for the relief sought for therein.

4. The learned Senior Counsel appearing for the petitioners contended that PWD is the parent department and TWAD Board is its sister concern, since to maintain the Water and Drainage system, TWAD Board was created. At the time of creation of TWAD Board, the employees of PWD were transferred to TWAD Board and no option was sought for from the employees of PWD. The persons working in the field in both PWD and TWAD Board who are work charged employees were regularised and they were given selection grade and special grade after completion of 10 years and 20 years respectively. The Work Inspectors Grade II in both the Organisations are doing identical work with the same responsibilities. TWAD Board is following the Government of Tamil Nadu orders and implementing the same to its employees. The Work Inspectors Grade II in PWD is entitled to same scale of pay given to Work Inspectors Grade II in TWAD Board on the principle of equal pay for equal work. Both are doing identical work. The 3rd respondent, by G.O.Ms.No.1064 (Public Works Department) dated 05.06.1980 uniformly fixed the duties and responsibilities of the Work Inspectors throughout Tamil Nadu. Therefore, both of them are doing different nature of work is not correct.

4(a) In respect of letter written by the 4th respondent only order passed by the TWAD Board in Circular No.D1/128317/92 dated 02.12.1992 saying Technical Assistant (diploma holder) is doing higher work equivalent to the Work Inspectors in PWD. In respect of a letter written to Chairman & Managing Director, Tamil Nadu Water Supply and Drainage Board, Chennai requesting

to furnish the qualification, scale of pay, experience, duties and responsibilities and other details prescribed for the post of Work Inspectors, Grade II, the Joint Chief Engineer (General), TWAD, Chennai informed that they are following G.O.Ms.No.1064 (Public Works Department) dated 05.06.1980. In the information dated 20.04.2011 furnished under Right To Information Act to Mr.S.Rajesh, Advocate, the Public Information Officer, TWAD Board informed that they follow the salary fixed by the Government vide G.O.Ms.No.1064 (Public Works Department) dated 05.06.1980 and that Board is not deciding the scale of pay to its employees. In view of the same, the stand taken by the respondents 1 to 3 that work done by the Work Inspectors Grade II in PWD and TWAD Board are different and that Government need not follow the scale of pay fixed by the Board and only the Board has to follow the pay fixed by the Government is arbitrary and invalid.

4(b) The learned Senior Counsel appearing for the petitioners relied on the judgment reported in 2017 (1) SCC 148 [State of Punjab and others v. Jagjit Singh and others] wherein it has been held as follows -

42.2 The mere fact that the subject post occupied by the claimant, is in a "different department" vis-a-vis the reference post, does not have any bearing on the determination of a claim, under the principle of 'equal pay for equal work'. Persons discharging identical duties, cannot be treated differently, in the matter of their pay, merely because they belong to different departments of Government .

4(c) In view of the above said judgment, denial of equal pay for equal work to the petitioners is not justifiable. The learned Senior Counsel also referred to the G.O.Ms.No.1064 (Public Works Department) dated 05.06.1980, letter addressed by the 3rd respondent to Chairman & Managing Director, Tamil Nadu Water Supply and Drainage Board, Chennai and information furnished by the Public Information Officer, TWAD Board under RTI Act.

4(d) The post of Head Mazdoor was re-designated as Work Inspector Grade III in PWD. The same was followed

by TWAD Board and Head Mazdoor was re-designated as Work Inspector Grade III. Subsequently, in TWAD Board, the Work Inspectors Grade III was merged with Work Inspectors Grade II and scale of pay of Work Inspectors was revised in TWAD Board as 1200-2040 w.e.f 01.06.1988 as per the orders of this Court. While so, the Work Inspectors, Grade II in PWD was drawing salary in the scale of pay 975-1200. Though both the employees in PWD and TWAD Board are doing identical work, Work Inspectors Grade II in PWD is paid lesser salary than the Work Inspectors Grade II in TWAD Board. The judgment of this Court relating to one Department is applicable to all the Departments of Government, especially when TWAD Board is following G.O.Ms.No.1064 (Public works Department) dated 05.06.1980 for the duties and responsibilities of the Work Inspectors.

5. Per contra, the learned Additional Advocate General appearing for the respondents contended that the Writ Petition No.16630 of 2010 filed by the Association is not maintainable and individuals who are aggrieved alone are entitled to file writ petitions in service matters. The earlier Writ Petition No.4911 of 2010 filed by one A.Alphonse in the capacity of General Secretary of the Petitioner Association was held as not maintainable and the petitioner herein in W.P.No.16630 of 2010 withdraw the said writ petition. Based on the same averments, the present writ petition is filed. The writ petition filed by the Association in service matters is not maintainable and it is liable to be dismissed in limini.

5(a) As far as other writ petitions, i.e. W.P.No.16629, 16631 to 16633 of 2010 are concerned, the petitioners have not approached this Court for the relief at the earliest and the present writ petitions are liable to be dismissed on the ground of delay and laches. The petitioners have not explained as to why they have not approached the Court at the earliest for the relief now sought for. The earlier Writ Petition No.4911 of 2010 filed by one A.Alphonse in the capacity as General Secretary of the Petitioner Association did not contain the list of members and therefore the present writ petitions filed by the petitioners are liable to be dismissed on the ground of delay and laches.

5(b) On merits, the learned Additional Advocate General submitted that TWAD Board was created in the year 1971 by a special enactment called Tamil Nadu Water Supply and Drainage Act, 1970 (Tamil Nadu Act 4 of 1971). The TWAD Board has its own service regulations and empowered with fixation and revision of scale of pay to its employees. TWAD Board also amended the portion of service regulations and post of Head Mazdoor was abolished and was merged with Work Inspectors Grade III. Subsequently, the post of Work Inspectors Grade III was merged with Work Inspectors Grade II. In TWAD Board, there are only two categories of Work Inspectors, i.e. Work Inspector Grade I & Work Inspector Grade II. The avenue of promotion is limited in TWAD Board. In PWD, there are three categories of Work Inspectors, i.e. Work Inspectors Grade I, Work Inspectors Grade II and Work Inspectors Grade III. The educational qualification and work done by the Work Inspectors, Grade II in TWAD Board is different from the work done by the Work Inspectors, Grade II in PWD. The Board or Corporation can fix the service conditions to its employees depending upon their requirement. On the other hand, the Government Departments are bound by orders of the Government. The Board or Corporation can follow the service conditions of Government Servants with regard to scale of pay, revision of pay, etc. for its employees.

5(c) The Government need not follow the scale of pay, revision of pay, duties of employees fixed by the Corporation or Board. In the present case, when the post of Work Inspectors Grade III was merged with Work Inspectors Grade II, the employees of TWAD Board approached this Court for revision of scale of pay. The petitioners or Association did not approach the Court claiming the same relief for them also. Only when this court, by order dated 07.03.1997 made in W.P.No.5002 of 1990 and W.P.No.16096 of 1991 revised the scale of pay for Work Inspectors Grade II in TWAD Board, the Petitioner Association gave a representation to the respondents to extend the same benefit to them. The 2nd respondent, considering the entire materials, rejected the request of the Petitioner Association stating that the work done by the Work Inspectors, Grade II in TWAD Board is different from that of work done by Work Inspectors in PWD. In earlier round of litigation, the Division Bench of this Court, while allowing Writ

Petition No.45320 of 2002, held in the said order that Association has failed to prove that work done by the Work Inspectors Grade II are identical. The Hon'ble Apex Court, set aside the order of this Court as well as the order of the Tribunal and remanded the matter back to the Tribunal, with liberty to the Association to adduce evidence to prove that work done by Work Inspectors, Grade II, TWAD Board and Work Inspectors, Grade II PWD are one and the same.

5(d) The petitioners have not pleaded and produced materials to substantiate their claim that the work done by the Work Inspectors, Grade II are one and the same. The educational qualification for Work Inspectors in TWAD Board is ITI certificate in Civil or Mechanical Course. For PWD, it is SSLC with Bifurcated Engineering course. The work done by Work Inspectors, Grade II are different in TWAD Board and PWD and avenue of promotion is also different. The learned Additional Advocate General, in support of his contention, relied on the judgment reported in 2006 (9) SCC 321 [State of Haryana and others v. Charanjit Singh and others]

19) Having considered the authorities and the submissions we are of the view that the authorities in the cases of Jasmer Singh, Tilak Raj, Orissa University of Agriculture & Technology and Tarun K. Roy lay down the correct law. Undoubtedly, the doctrine of "equal pay for equal work" is not an abstract doctrine and is capable of being enforced in a Court of law. But equal pay must be for equal work of equal value. The principle of "equal pay for equal work" has no mechanical application in every case. Article 14 permits reasonable classification based on qualities or characteristics of persons recruited and grouped together, as against those who were left out. Of course, the qualities or characteristics must have a reasonable relation to the object sought to be achieved. In service matters, merit or experience can be a proper basis for classification for the purposes of pay in order to promote efficiency in administration. A higher pay scale to avoid stagnation or resultant

frustration for lack of promotional avenues is also an acceptable reason for pay differentiation. The very fact that the person has not gone through the process of recruitment may itself, in certain cases, make a difference. If the educational qualifications are different, then also the doctrine may have no application. Even though persons may do the same work, their quality of work may differ. Where persons are selected by a Selection Committee on the basis of merit with due regard to seniority a higher pay scale granted to such persons who are evaluated by competent authority cannot be challenged. A classification based on difference in educational qualifications justifies a difference in pay scales. A mere nomenclature designating a person as say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman in regular service. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a comparison of physical activity. The application of the principle of "equal pay for equal work" requires consideration of various dimensions of a given job. The accuracy required and the dexterity that the job may entail may differ from job to job. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities made a difference. Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere. Normally a party claiming equal pay for equal work should be required to raise a dispute in this regards. In any event the party who claims equal pay for equal work has to make necessary averments and prove that all things are equal. Thus, before any direction can be issued by a Court, the Court must first see

that there are necessary averments and there is a proof. If the High Court, is on basis of material placed before it, convinced that there was equal work of equal quality and all other relevant factors are fulfilled it may direct payment of equal pay from the date of the filing of the respective Writ Petition. In all these cases, we find that the High Court has blindly proceeded on the basis that the doctrine of equal pay for equal work applies without examining any relevant factors.

5(e) The learned Additional Advocate General further submitted that the petitioners have not filed any material to show that they are entitled to equal pay as paid to the Work Inspectors, Grade II in TWAD Board. The petitioners have not fulfilled the parameters as stated by the Hon'ble Apex Court for equal pay for equal work.

5(f) The relief sought for in all the writ petitions is that Work Inspectors, Grade II working in PWD must be paid the same scale of pay which is paid to Work Inspectors, Grade II working in TWAD Board.

5(g) The learned Government Advocate filed comparative statement showing the duties of posts and the difference in qualification and responsibilities.

6. In reply, the learned Senior Counsel appearing for the petitioners contended that when there is only minor difference in educational qualification, that will not make any material difference. The learned counsel appearing for the petitioners filed comparative statement for pay scale for Work Inspectors, Grade II in PWD and Work Inspectors, Grade II in TWAD Board. The learned Senior Counsel for the petitioners referred to the same and contended that work done by Work Inspectors, Grade II in PWD and TWAD Board are one and the same and they are entitled for same scale of pay.

7. Heard the learned Senior Counsel appearing for the petitioners, learned Additional Advocate General appearing for the respondents assisted by the learned

Government Advocate and perused the entire materials available on record.

8. According to the petitioners, both the Work Inspectors, Grade II in PWD as well as TWAD Board are discharging the same duties and they have same responsibilities. This relief can be claimed only by aggrieved employees and the Association cannot maintain the writ petition alleging to expose the case of its members. It is pertinent to note that W.P.No.4911 of 2010 alleged to have been filed by the Association was dismissed as withdrawn when this court expressed its view that Association is not entitled to file writ petition claiming the relief in the service matters. The present writ petition in W.P.No.16630 of 2010 is also filed for the very same relief. In view of the same, W.P.No.16630 of 2010 filed by the Association is dismissed as not maintainable.

9. As far as other writ petitions filed by the individual employees are concerned, they are claiming relief of pay parity with the Work Inspectors, Grade II working in TWAD Board. They are seeking to quash the order of the 2nd respondent dated 20.10.1999. The writ petition is filed in the year 2010. No reason is given for the delay in filing the writ petition in the year 2010 claiming relief w.e.f 01.06.1988. It is not the case of the petitioners that O.A.No.993 of 2000 which was re-numbered as W.P.No.4911 of 2010 after remand was filed on their behalf. They have not pleaded that in O.A.No.993 of 2000 and subsequently W.P.No.4911 of 2010, a list of members of the Association including the petitioners name were enclosed and that Association was pursuing remedy on their behalf also. By the order dated 18.03.2010 in W.P.No.4911 of 2010, this Court has expressed a doubt as to whether the said writ petition was filed by A.Alphonse in his individual capacity or as a General Secretary of the Association. When such a doubt was expressed by this Court, the said writ petition was withdrawn. This court, in the said order has held that it will not disentitle either the petitioner i.e. A.Alphonse or the petitioner association to move the appropriate forum for appropriate relief. This will not amount to giving liberty to all the Work Inspectors, Grade II working in the PWD to file writ petitions claiming relief as claimed in the present writ petition.

The writ petitions are liable to be dismissed on the ground of delay and laches also.

10. The main contention of the learned Senior Counsel appearing for the petitioners are that -

(i) Public Works Department is the parent department

(ii) On creation of TWAD Board, the employees of PWD are re-deployed in TWAD Board. TWAD Board follows the Government Orders in fixing the scale of pay, revision of pay, etc.

(iii) Work Inspectors Grade I & II working in PWD as well as TWAD Board are discharging the identical duties and hence the same responsibilities. The duties and responsibilities of the work charged establishments are same throughout Tamil Nadu.

(iv) TWAD Board follows G.O.Ms.No.1064 (Public Works Department) dated 05.06.1980. The impugned letter of the 2nd respondent dated 20.10.1999 rejecting the request of the Association for pay parity is erroneous.

(v) When the persons are discharging identical duties, they must be paid the same scale of pay.

The above contentions are contrary to the materials on record and submissions made by the learned Additional Advocate General on behalf of the respondents.

11. From the materials on record, it is seen that the Work Inspectors, Grade II working in TWAD Board was paid scale of pay 1200-2040. This scale of pay was fixed by the TWAD Board as per the order of this Court dated 07.03.1997 made in W.P.No.5002 of 1990 and W.P.No.16096 of 1991. This Court directed the TWAD Board to revise the said scale of pay when the post of Work Inspectors Grade III was merged with the post of Work Inspectors, Grade II. In TWAD Board, there are only two categories, i.e. Work Inspectors, Grade I & Grade II. On the other hand, there are three categories of Work Inspectors, Grade I, Grade II and Grade III in PWD. The educational qualification for appointment of Work Inspectors Grade II in TWAD Board is ITI Certificate with Civil or Mechanical Course whereas the educational qualification for Work

Inspectors in PWD is SSLC with Bifurcated Engineering Course. Further, the petitioners have not produced any materials to show that duties and responsibilities of Work Inspectors in PWD as well as TWAD Board are one and the same. They rely only on G.O.Ms.No.1064 (Public Works Department) dated 05.06.1980 and contended that for work charged establishments, the duties and responsibilities are one and the same for all the Government Departments as well as Board and Corporation.

12. On the other hand, in the counter affidavit filed by the respondents, it has been stated that TWAD Board has its own service regulations and empowered with fixation and revision of scale of pay to its employees. Further, it has been stated that TWAD Board has amended the portion of the service regulations vide B.P.Ms.No.141 dated 04.03.1997 to have retrospective effect from 01.01.1977. It is further stated that TWAD Board has obtained prior permission from the Government for such amendment. As per the said amendment, there are two categories of posts of Work Inspectors, i.e. Work inspectors Grade I and Work Inspectors Grade I. The post of Head Mazdoor in TWAD Board was merged with Work Inspectors Grade III, subsequently merged with Work Inspectors, Grade II. In view of such merger, this Court, in W.P.No.5002 of 1990 & W.P.No.16096 of 1991 dated 07.03.1997 has directed the TWAD Board to revise the scale of pay of Work Inspectors Grade II. This contention of the respondents is not denied by the petitioners. They have not taken any steps for merger of Work Inspectors Grade III with Work Inspectors Grade II & Grade I to have only two categories of Work Inspectors i.e. Work Inspectors Grade I and Work Inspectors Grade II. PWD continues to have three post of Work Inspectors while TWAD Board, by amendment has two categories of Work Inspectors, i.e. Works Inspectors Grade I and Work Inspectors Grade II.

13. Earlier, the Division Bench of this Court by order dated 08.12.2005 in W.P.No.45230 of 2002 held that the Association failed to prove that Work Inspectors Grade II working in PWD is discharging identical duties as that of Work Inspectors Grade II in TWAD Board. When this order was challenged before the Hon'ble Apex Court, the said order of this court as well as the order of the Tribunal in O.A.No.993 of 2000 was set aside and the Hon'ble Apex Court held as follows -

"Leave Granted.

This appeal is directed against a judgment and order of the Division Bench of the High Court of Judicature at Madras dated 08.12.2005 whereby and whereunder the writ petition filed by the respondent herein, questioning the correctness or otherwise the judgment and order dated 1st July passed by the Tamil Nadu Administrative Tribunal at Chennai allowing the original application filed by the applicant, was allowed.

From a perusal of the judgment of the Tribunal, it appears that the original application filed by the appellant herein was allowed relying on or on the basis of a judgment of the Madras High Court passed in writ petition No.5002/90 and writ petition No.16096/91 dated 7.3.1997. The State filed a writ petition thereagainst before the High Court.

The High Court by reason of the impugned judgment opined :

From the above discussion, it is clear that the first respondent has not proved that no iota of factor makes difference between the category of Work Inspector in P.W.D. and TAWD Board in all facts and nature of work and therefore, in the light of the above principles laid down by the Supreme Court, we are of the view that the noble principle of "Equal pay for Equal work" is not applicable to the case of the first respondent and that the first respondent Association is not entitled for the benefit given to the petitioner in W.P.No.5002 of 1992, thereby the order of the Tribunal which rendered a non-speaking order, is liable to be set aside.

As the applicant herein admittedly did

not adduce any evidence in support of his claim, we are of the opinion that the permission may be granted to him to do so. It goes without saying that all contentions of the parties on the basis of such evidence which may be adduced shall remain open. Both the judgments of the High Court, as also of the Tribunal are set aside. The matter is remitted back to the Tribunal.

The appeal is disposed of accordingly.

14. Even after remand to the Tribunal, the petitioner therein did not adduce any evidence to substantiate their claims that duties and responsibilities are identical in PWD and TWAD Board. Similarly, the petitioners herein have also failed to prove their contention by acceptable evidence. The documents produced by the petitioners do not prove that the work done by the Work Inspectors Grade II in PWD and TWAD Board are identical. On the other hand, the learned Additional Advocate General appearing for the respondents has substantiated the contention of the respondents that educational qualification and duties and promotional avenues are different in PWD and TWAD Board. Further, the contention of the respondents is that Board or Corporation have rules and regulations with regard to service conditions for its employees and the Board or Corporation will adopt the general pay revision issued by the Government, if the said revision suits them, they can adopt such revision only with prior approval of the Government. Generally, the Board or Corporation should adopt the scale of pay of the Government but there is no condition that Government should adopt the scale of pay of the Board.

15. In the judgment reported in 2006 (9) SCC 321 cited supra, the Hon'ble Apex Court has held that principle of "Equal Pay for Equal Work" is not mechanical application in every case and Article 14 permits reasonable classification. The said ratio is squarely applicable to the facts of the present case as Work Inspectors Grade II in TWAD Board are in different category than the Work Inspectors Grade II in PWD. The claim of the petitioners for the same scale of pay as paid to the Work Inspectors in TWAD Board, that too, from 01.06.1988 is without merits. The judgment relied on by

the learned Additional Advocate General appearing for the respondents is squarely applicable to the facts of the present case. The judgment relied on by the learned Senior Counsel appearing for the petitioners do not advance the case of the petitioners.

16. In the result, all the writ petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rgr
To

1.The Secretary to Government
Finance Department,
Fort St. George,
Chennai - 9.

2.The Special Secretary to Government
Finance (CMPC) Department
Fort St. George,
Chennai - 9.

3.The Principal Secretary to Government
Public Works Department
Chennai - 9.

4.The Engineer in Chief (W.R.O.) and
Chief Engineer (General)
Public Works Department
Chepauk, Chennai - 5.

+1cc to M/S.S.Arunachalam , Advocate SR.No. 76062

+1 cc to Government Pleader Sr.No. 75555

W.P.Nos.16629 to 16633 of 2010
and WMP Nos.38602 to 38605 of 2016

A.SK(09/10/2019)