

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.24137 of 2010
and
M.P.No.2 of 2010

1.R.Ramu

2.P.Pandian

3.G.Gopal

4.V.Thulukkanam

5.D.Parthasarathy

... Petitioners

Vs.

1.The Chief Engineer,
Agricultural Engineering Department,
Anna Salai, Nandanam,
Chennai - 600 035.

2.The Assistant Executive Engineer (AE),
Agricultural Engineering Department,
No.23-A, Brindavanam Street,
Kancheepuram - 631 501.

3.The Assistant Executive Engineer (AE),
Agricultural Engineering Department,
Madurai Road, Theni - 625 531.

4.The Assistant Executive Engineer (AE),
Agricultural Engineering Department,
Sakthi Nagar, Ponneri,
Thiruvallur District.

5.The Assistant Executive Engineer (AE),
Agricultural Engineering Department,
N.G.O. Colony,
Thiruvallur - 602 001.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorari to call for the records connected with the impugned Letter bearing No.Thu Pa2/2831/2009 dated 03.09.2010 of the 1st Respondent herein and quash the same.

For Petitioners : Mr.K.M.Ramesh

For Respondents : Mr.K.Ravikumar
(Additional Government Pleader)

O R D E R

Writ Petition is filed for issuance of writ of Certiorari to call for the records connected with the impugned Letter bearing No.Thu Pa2/2831/2009 dated 03.09.2010 of the 1st Respondent herein and quash the same.

2. According to the petitioners, the first petitioner was appointed as Fitter Grade III on 06.02.1981, the second petitioner was appointed as Turner Grade II on 18.07.1986, the third petitioner was appointed as Lorry Mazdoor on 05.08.1983, the fourth petitioner was appointed as Hammerman Grade III on 31.07.1982 and the fifth petitioner was appointed as Lorry Mazdoor on 09.03.1981 in the Government Agricultural Engineering Workshop, Chennai. When the fourth pay commission was implemented, all the Grade III posts were abolished and merged with Grade II post. The first petitioner became Fitter Grade I, the second petitioner became Turner Grade I and then re-designated as Machinist Grade I, the third petitioner became Hammerman Grade II, the fourth petitioner became Hammerman Grade I and the fifth petitioner became Hammerman Grade III. As per the report of the one man committee, the first respondent by G.O.Ms.No.446, Finance (Pay Cell) Department dated 31.08.1998, granted respective Grade I pay to the petitioners. Upon closure of workshop in Chennai, the first petitioner was transferred to Tiruchirappalli and then to the office of the second respondent, the second petitioner was transferred to Theni and then to the office of the third respondent, the third petitioner was transferred to Tiruchirappalli and then to the office of the fourth respondent, the fourth petitioner was transferred to Tiruvarur and then to the office of the fifth respondent and the fifth petitioner was transferred to Madurai and to Chennai and then to the office of the fifth respondent. The concerned Assistant Executive Engineers, the respondents 2 to 5 herein, refixed the salary of the respective petitioners on the ground of anomaly and ordered recovery of the amounts mentioned therein. The petitioners have filed the above Writ Petition challenging the impugned order dated 03.09.2010.

3.Heard the learned counsel appearing for the petitioners as well as Mr.K.Ravikumar, learned Additional Government Pleader appearing for the respondents and perused the entire materials on record.

4.The learned counsel appearing for the petitioners referred to the order dated 15.04.2015 made in W.P.(MD)No.1223 of 2012 and contended that the said order of this Court is applicable to the facts of the present case and also produced a copy of the said order.

5.I have gone through the averments in the affidavit and counter affidavit and the order of this Court dated 15.04.2015 made in W.P.(MD)No.1223 of 2012.

6.From the above materials it is clear that the case of the petitioners are also covered by the order of this Court dated 15.04.2015 made in W.P.(MD)No.1223 of 2012, wherein at paragraph nos.22 to 25, it has been held as follows:

"...22.According to the petitioner, while he was working in Government Agricultural Engineering Workshop, Washermanpet, Chennai - 21 all the 11 Turners Grade-I, retired on attaining age of superannuation and the first respondent requested the petitioner and others to work as Turner Grade-I and he was discharging the duty as Turner Grade-I. That is the reason why, the first respondent by his letter dated 26.09.2002 directed the second respondent to fix the petitioner's pay as Turner Grade-I, as per G.O.Ms.No.446 dated 31.08.1998.

23.Based on the said letter, the second respondent by his proceedings No.558/01 dated 31.10.2002 fixed the salary of the petitioner as Turner Grade-I. In the counter affidavit the respondents have stated that the petitioner was never promoted as Turner Grade-I and no Government Order has passed in this regard. It is not the case of the petitioner that he was promoted as Turner Grade-I. On the other hand, petitioner's specific case is on superannuation of all the 11 Turners Grade-I, the petitioner and others were

directed to discharge the duties of Turner Grade-I. This contention of the petitioner has considerable force and is supported by letter of the first respondent dated 26.09.2002 bearing Ref.No.9/2002 and consequential fixation of pay by the second respondent, by the proceedings dated 31.10.2002 in proceedings No.A.588/01.

24.Having extracted work from the petitioner as Turner Grade-I, even though, no formal promotional order was issued, the respondents cannot downgrade the salary of the petitioner.

25.For the reasons stated above, the impugned orders of the respondents are not valid and liable to be set aside."

In view of the order of this Court referred to above, the impugned order is liable to be set aside and it is hereby set aside.

7.In the result, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

krk

To

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N.G.O. Colony,
Thiruvallur - 602 001.

+1cc to Mr.K.M.Ramesh, Advocate SR.No.56854

+1cc to Government Pleader SR.No.58030

W.P.No.24137 of 2010 and
M.P.No.2 of 2010

BR(CO)
GMY(08/08/2019)



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