

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.6285 of 2019

1. Tmt.R.Tharani, aged about 55 years,
2. Tr.G.V.Parthasarathy, aged about 50 years,
3. Tr.M.Sukumaran, aged about 57 years,
4. Tr.N.Jothi Ramalingam, aged about 50 years,
5. Tr.S.Velayutham, aged about 55 years,
6. Tr.M.Arul, aged about 56 years,
7. Tr.G.Babu, aged about 51 years,
8. Tr.V.Shanmugam, aged about 56 years,
9. Tmt.M.Vasuki, aged about 57 years,
10. Tr.R.Annamalai, aged about 53 years,
11. Tr.P.Jayaseelan, aged about 57 years,
12. Tr.B.Chandrasekaran, aged about 58 years,
13. Tr.J.Beema Rao, aged about 59,

.. Petitioners

Vs.

1. The Registrar General,
High Court, Madras.
2. Principal District Judge, Vellore.
3. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Home (IV) Department,
Fort St.George, Chennai.
(Third respondent impleaded, vide
Order dated 20.06.2019 made in
W.M.P.No.12159 of 2019)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the first respondent to revise the time scale of pay and grade pay for the staff members working in Tamil Nadu Judicial Ministerial Service as per the representation dated 29.06.2018.

For petitioner : Mr.V.Raghavachari

For respondents: Mr.V.Vijay Shankar for RR-1 & 2

Mr.V.Shanmuga Sundar, Spl.G.P. for R-3

ORDER

(The Order of the Court was made by R.Subbiah,J)

The petitioner has come forward with the present Writ Petition praying for issuance of a Writ of Mandamus to direct the first respondent to revise the time scale of pay and grade pay for the staff members working in Tamil Nadu Judicial Ministerial Service (TNJMS) as per the representation dated 29.06.2018.

2. In the affidavit sworn to by the third petitioner on behalf of all the petitioners, it is stated that the petitioners are working in Vellore District in Tamil Nadu Judicial Ministerial Service in the cadre of Senior Sheristadar, Subordinate Judge's Court, Grade-I Bench Clerk of District Court, Labour Court and Mahila Court and Sheristadar of District Court, Mahila Court, Labour Court and Chief Judicial Magistrate Court and retired staff in the above said categories of Vellore Districts and they are in separate time scale of pay. A Senior Sheristadar of Subordinate Judge's Court in Judicial Department belongs to Category-II of Class IV in TNJMS equivalent to the Central Nazir of Subordinate Judge's Court/District Court and Head Clerk of District Court and Superintendent of Principal Labour Court. These posts are promotional posts from the post of Head Clerk, Deputy Nazir, Translator, Copyist, Superintendent and Record Keeper, who belongs to Category-III of Class IV in TNJMS.

3. It is further averred by the petitioners in the affidavit that the new post, namely, Grade-I Bench Clerk of District Court, Labour Court and Mahila Court had been created based on the recommendations of the First National Judicial Pay Commission and as per G.O.(Ms).No.956, Home (Courts-V) Department, dated 08.11.2013 with effect from 12.12.2007 and monetary benefits with effect from 01.04.2013 (monetary benefits were granted). This post is a promotional post for the persons in the post of Senior Sheristadar, Subordinate Judge's Court, Central Nazir of Subordinate Judge's Court/District Court and Head Clerk of District Court, Superintendent of Principal Labour

Court, which belongs to Category-II of Class IV in TNJMS. The post of Sheristadar, District Court, Sheristadar of Mahila Court, Labour Court and Chief Judicial Magistrate's Courts belong to Category-I of Class IV in TNJMS. These posts are promotional posts from the post of Grade-I Bench Clerk of District Court, Mahila Court and Labour Court. The scale of pay of the Chief Administrative Officer had been revised to Rs.15600-39100+G.P.6600 (pre-revised Rs.10000-325-15200) as per the recommendation of the Justice Shetty Commission. It is the promotional post from the post of Sheristadar, District Court.

4. It is the further case of the petitioners that the pay scale of the post covered under Category-II and Category-III in Class IV of TNJMS Rules, is one and the same, even though Category-II post carries a higher responsibility and the work load is also heavy. The time scale for these posts pre-revised scale Rs.5700-175-9200 with effect from 01.01.2006 and as per the Tamil Nadu Revised Pay Scale Rules, 2009, with effect from 01.06.2009 is Rs.9300-34800 G.P.4800. As such, the posts covered under Category-II require separate higher time scale of pay than that of the posts covered under Category-III in Class IV of TNJMS Rules. The pay scale for both the Grade-I Bench Clerk and its feeder category carries identical scale, i.e. Rs.6500-200-10500 in the pre-revised scale prior to 01.01.2006. The scale of pay of Senior Sheristadar of Sub-Courts is Rs.9300-34800+G.P.4800, whereas the time scale of pay of the Grade-I Bench Clerk is Rs.9300-34800+G.P.5100 with effect from 01.01.2006. As such, the posts of Grade-I Bench Clerk of District Court require separate higher time scale of pay than that of the posts covered under Category-II in Class IV of TNJMS Rules.

5. It is also stated by the petitioners that as per the recommendations of the First National Judicial Pay Commission, on improvement of non-judicial staff of Subordinate Courts in Tamil Nadu, various recommendations of the Commission were considered by the Government of Tamil Nadu and necessary orders were issued in G.O.(Ms).No.40, Home (Courts) Department, dated 11.01.2008. Among various recommendations and corresponding orders of the Government, one of the recommendations at page 6 of the said G.O.(Ms) under Chapter XI Serial No.14 is in respect of the recommendation for fixing higher scale of pay for the Sheristadar of the respective Courts and Labour Court. The pay scale is similar for both Grade-I Bench Clerk and the Sheristadar of Chief Judicial Magistrate's Court, District Court. That being the case, as per the recommendation of the First National Judicial Pay Commission, the scale of pay of the Sheristadar has to be fixed in the higher scale, otherwise, the very purpose of calling it a promotional post, loses all relevance. The posts of Sheristadar of District Court (Mahila and Labour Court) and Sheristadar of Chief Judicial Magistrate's Court at District level require separate higher time scale of

pay than that of the posts of Grade-I Bench Clerk, i.e. the time scale of pay of Rs.15600-39100+G.P.5700 with effect from 01.01.2006. The post of Sheristadar of District Court and the post of Sheristadar of Mahila Court, Labour Court and Chief Judicial Magistrate's Court, is an administrative post with higher responsibilities. Prior to the post of Chief Administrative Officer, the post of Sheristadar, District Court, was the highest post in the TNJMS in District level. After creation of the post of Grade-I Bench Clerk and the post of Chief Administrative Officer and fixing separate time scale for those posts, the time scale for the post of Sheristadar, District Court, etc., was left unfortunately untouched, which eventually resulted in monetary loss to those who are promoted to the posts of Sheristadar of District Court, etc.

6. It is the further case of the petitioners that there is an imminent need to create a separate time scale of pay, i.e. Rs.15600+39100+G.P.5700, which is in between the scale of pay of Grade-I Bench Clerk and the Grade Pay of the Chief Administrative Officer and the same is tabulated hereunder:

S.No.	Name of the Post	Current Scale of Pay	Scale of Pay and Grade Pay being prayed for
1	Senior Sheristadar, Subordinate Judges Court (equivalent to Central Nazir of Subordinate Judge's / District Court and Head Clerk of District Court, Labour Court)	Rs.9300-34800+G.P. 4800	Rs.9300-34800+G.P.5100
2	Grade-I Bench Clerk of District Court (Labour and Mahila Court)	Rs.9300-34800+G.P.5100	Rs.9300-34800+G.P.5400
3	Sheristadar of Chief Judicial Magistrate Court and District Court (Sheristadar of Mahila Court and District Court, Labour Court)	Rs.9300-34800+G.P.5100	Scale of Pay Rs.15600-39600+G.P.5700

7. It is the further stand of the petitioners that there are considerable number of staff members serving in the below mentioned posts, the numbers (of posts) of which are mentioned herein:

(i) Senior Sheristadar, Subordinate Judge's Court (equivalent to the post of Central Nazir of Subordinate Judge's Court/District Court) and Head Clerk of District Court, Labour Court ---> approximately 450 posts.

(ii) Grade-I Bench Clerk of District Court, Labour Court, Mahila Court ---> approximately 160.

(iii) Sheristadar of Chief Judicial Magistrate Court and District Court (Mahila and Labour Court) ---> approximately 170.

8. It is also the averment of the petitioners in the affidavit filed in support of the Writ Petition that the staff members serving in the aforementioned positions, have put in years of hard work and self-less service and are entitled to higher scale of pay, which appropriately justifies the work that is being done by them. The request for change of Grade Pay and Scale of Pay does not create any sort of exorbitant burden on the financial exchequer of the State. In various other Departments of the Ministerial Service, the staff members enjoy higher scales of pay for the promotional post, such as, Hindu Religious and Charitable Endowments Departments, State Commercial Taxes Department, etc.

9. Hence, for all the above reasons, the petitioners have submitted a detailed representation dated 29.06.2018 to the second respondent, who in turn had forwarded the same to the first respondent for appropriate orders. It is stated by the petitioners that the papers have been forwarded to the Government with a favourable note. Subsequently, the first respondent was reminded to consider the request that was put forth before him by the members of the Ministerial services, but no action is taken. In the meantime, various staff members of the services had incurred minor financial loss, while some of them have retired. The delay in considering the request has compelled the petitioners to approach this Court for the relief stated supra.

10. Heard both sides and perused the materials available on record.

11. Considering the prayer made in this Writ Petition and taking into account the factual aspects of the matter, this Court, without going into the merits of the case, directs the respondents to consider the representation of the petitioners, dated 29.06.2018, conduct enquiry, afford an opportunity of hearing to the petitioners and necessary parties, if any, pass appropriate orders and dispose of the said representation, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the respondents to decide the same at the time of disposing of the said representation purely on merits.

12. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

CS

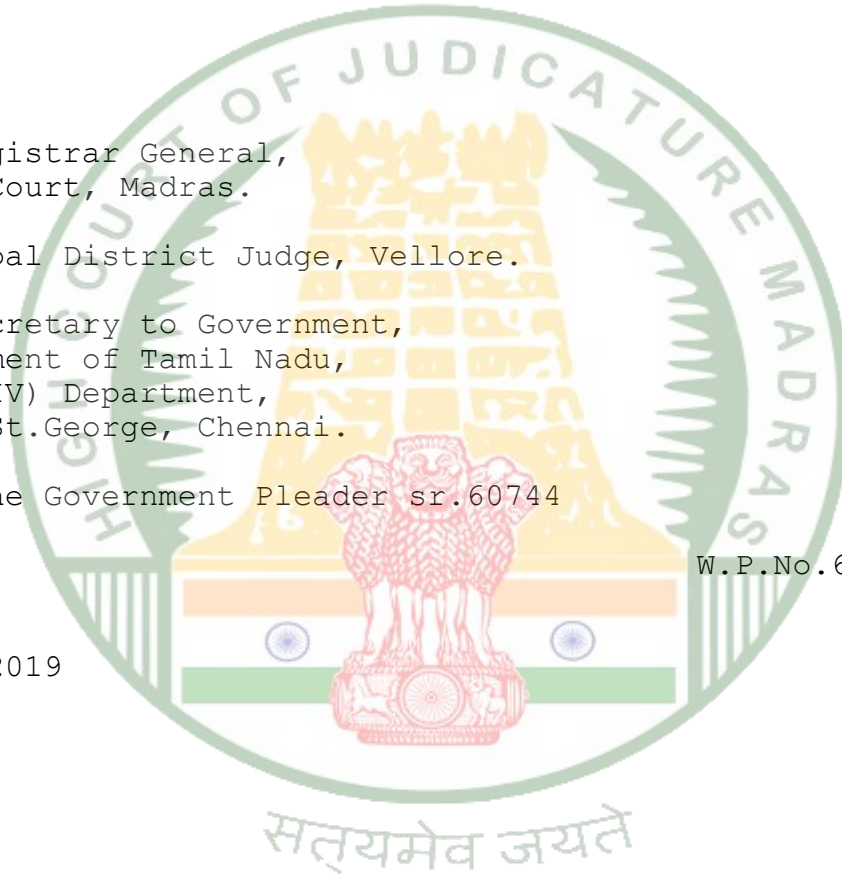
To

1. The Registrar General,
High Court, Madras.
2. Principal District Judge, Vellore.
3. The Secretary to Government,
Government of Tamil Nadu,
Home (IV) Department,
Fort St.George, Chennai.

+1cc to The Government Pleader sr.60744

W.P.No.6285 of 2019

mp(co)
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