

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.26440/2019 & WMP.No.25799/2019

- 1.The Union of India
represented by Secretary
Ministry of Telecommunication and IT
Department of Post, Dak Bhavan
Sansad Marg, New Delhi 110 001.
- 2.The Chief Postmaster General
Tamil Nadu Circle, Chennai-2. ... Petitioner

Versus

- 1.D.Raghupathi
2.The Registrar
Central Administrative Tribunal
High court Complex, Chennai 104. ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records in OA.No.310/00106/2016 dated 08.11.2016 on the file of the 2nd respondent insofar as it is against the petitioners and quash the same.

For Petitioner : Mr.V.Balasubramanian
Sr.Panel Counsel for
Government of India

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

(1)The official respondents in OA.No.106/2016 are the writ petitioners herein and aggrieved by the impugned order dated 08.11.2016 in disposing of the said Original Application in favour of the 1st respondent herein/Original applicant, have filed the present writ petition.

- (2) Heard the submissions of Mr.V.Balasubramanian, learned Senior Panel Counsel for the Government of India and also perused the materials placed before it.
- (3) The facts leading to the filing of the present writ petition have been narrated in detail and in extenso in the impugned order passed in the Original Application, which is the subject matter of challenge in this writ petition and therefore, it is unnecessary to restate the facts once again.
- (4) The Tribunal has placed reliance upon the communication dated 04.11.2008, bearing No.1-14/2008-PCC issued by the Ministry of Telecommunication and Information Technology, Department of Post, Government of India and it is relevant to extract the same:-

'Subject:- Recommendations of Sixth Central Pay Commission - Fixation of Pay of PS Group 'B' Officers.

Sir/Madam,

I am directed to refer to this office letter No.4-4/2008-PCC, dated 04.09.2008 regarding Sixth CPC-Revision of Pay Scales in respect of Group 'A', 'B', 'C' and 'D' Employees 2008.

2. Sixth CPC has recommended the revised pay scale of Rs.9300-34800 with grade pay of Rs.4800/- at the initial stage and Rs.9300-34800 with grade pay of Rs.5400 after completion of 4 years service to Postal Service Group 'B' Officers. A doubt has arisen about fixation of pay of the P.S. Group 'B' Officers who have already completed 4 years service and date from which the upgraded pay scale has to be fixed. The issue has been examined in consultation with the Ministry of Finance and it is clarified as under:-

"Since the upgradations have been granted on non-functional basis which are not lined to vacancy, these upgradations may be given w.e.f. 01.01.2006. However, due screening in regard to vigilance clearance etc may be done by the competent authority before upgradation."

3. Accordingly, the pay scale of P.S. Group 'B' Officers is to be fixed as under:-

Pre-Revised Pay Scale	Corresponding Pay Band and Grade Pay approved by the Government		Eligibility	Date from which to be given effect
	Pay Band	Grade Pay		
Rs.7500-12000	Rs.9300 - 34800 [PB 2]	Rs.4800	Initial Entry	01.01.2006
Rs.8000-13500	Rs.9300 - 34800 [PB 2]	Rs.5400	P.S.Group 'B' Officers who have completed 4 years of service as on 01.01.2006 in the pre-revised scale of Rs.7500-12000	01.01.2006 after due screening from vigilance angle.

4.Necessary action may be taken by the Circles to place the eligible P.S. Group 'B' Officers in the Grade Pay of Rs.5400 in [PB 2] after obtaining necessary vigilance clearance from the competent authority.'

(5)Admittedly, the 1st respondent/Original Applicant was initially appointed as an Assistant [Clerical Grade] with effect from 04.04.1978 and was given promotion to the post of Inspector of Posts through a limited Departmental Competitive Examination which took place in the year 1989. He was promoted as Assistant Superintendent of Posts with effect from 13.02.2002, which is a Gazetted Group 'B' Post, carrying a Grade Pay of Rs.4600/- and in the year 2008, he was granted MACP and consequently, granted Grade Pay of Rs.4800/- with effect from 01.09.2008 vide proceedings dated 06.10.2010. The Original Applicant/1st respondent got further promotion to the cadre of P.S. Group 'B' cadre with effect from 29.12.2012 and he retired from service on 31.08.2013. The Tribunal found that the Original Applicant/1st respondent herein had four years of regular service in the Grade Pay of Rs.4800/- and that he should be given the Grade Pay of Rs.5400/- and also placed reliance upon the above cited communication dated 04.11.2008.

(6)The primordial submission made by the learned Senior Panel Counsel appearing for the writ petitioners is that since the Original Applicant/1st respondent herein was posted in Group 'B' post in the year 2012, admittedly, he had not completed 4 years of service and that he retired from service on 31.08.2013 and as such, he is not entitled to get Grade Pay of

Rs.5400/- and therefore, prays for setting aside the impugned order.

(7) This Court has considered the said submission and also perused the materials placed before it as well as the impugned order.

(8) A perusal of the above cited communication dated 04.11.2008 would disclose that the tabular column in paragraph No.3 is relatable to P.S. Group 'B' Officers and it refers to the pre-revised Pay Scale of Rs.7500-12000/- and corresponding Pay Band and Grade Pay approve by the Government relatable to Pay Band of Rs.9300-34800 [PB 2] and they were given the Grade Pay of Rs.4800/- on the initial entry with effect from 01.01.2006.

(9) It is also to be noted at this juncture that it is not relatable to the post and admittedly, the proceedings dated 04.11.2008 applies to P.S. Group 'B' Officer. The petitioner was promoted as Assistant Superintendent of Posts with effect from 13.02.2002 and in the year 2008, he was granted Grade Pay of Rs.4800/- with effect from 01.09.2008 vide proceedings dated 06.10.2010 by the 2nd petitioner herein / 2nd respondent in OA.No.106/2016 with retrospective effect and subsequently, got promotion to the cadre of P.S. Group 'B' Cadre with effect from 29.12.2012 and retired on 31.08.2013. Admittedly, between 01.09.2008 and 31.08.2013, he was given the Grade Pay of Rs.4800/- and therefore, the Tribunal found that in the light of the above cited communication dated 04.11.2008, the Original Applicant/1st respondent herein is entitled to Grade Pay of Rs.5400/-.

(10) In the light of the said fact, this Court is of the considered view that the approach of the Central Administrative Tribunal to the said communication is in order and that apart, the 1st respondent herein/Original Applicant has also retired from service on 31.08.2013 and assuming for the sake of argument, he has been erroneously given such a benefit, he has not contributed to the said fact and on that account also, the alleged excess payment made, cannot be recovered.

This Court, on an independent application of appraisal of the entire materials, is of the considered view that there is no error apparent or infirmity in the reasons assigned by the Tribunal in the impugned order and finds no merit in the writ petition.

(11) In the result, the writ petition stands dismissed in the admission stage itself. No costs. Consequently, the connected miscellaneous petition is also closed.

(12) The learned Senior Panel Counsel appearing for the petitioners would submit that he received pre-contempt notice

and therefore, the petitioners/official respondents are under the pain of contempt and therefore, prays for some accommodation to comply with the orders passed by the Tribunal.

(13) Accordingly, the petitioners/official respondents are granted six weeks time from the date of receipt of a copy of this order to comply with the impugned order passed by the Tribunal.

(14)

Sd/-

Assistant Registrar(Insp cell)

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Secretary, Union of India
Ministry of Telecommunication and IT
Department of Post, Dak Bhavan
Sansad Marg, New Delhi 110 001.
 - 2.The Chief Postmaster General
Tamil Nadu Circle, Chennai-2.
 - 3.The Registrar
Central Administrative Tribunal
High court Complex, Chennai 104.
- +1cc to Mr.D.Raghupathi, Advocate SR.77568
+1cc to Mr.V.Balasubramanian, Advocate SR.77532

WP.No.26440/2019

RR(CO)
CB(11/10/2019)

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