



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

W.P.(MD)No.9529 of 2018

WEB COPY

S.Srinivasan

... Petitioner

Vs.

1.The Director General of Police,
Mylaport, Chennai - 600 004.

2.The Superintendent of Police,
Thoothukudi District, Thoothukudi. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to consider and pass orders on the petitioner's representations, dated 11.06.2017 and 22.07.2017 submitted in person with regard to re-fixation of his pay from the month of January'2014 on par with his juniors, namely, Mr.S.Muthuypattan (SSI - 1345) and Mr.Emmanuvel Sekaran (SSI-218) Special Sub Inspector of Police in the light of Rule 5 of the Tamil Nadu Revised Scales of Pay Rules 2009 passed vide G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009 within the time limit that may be stipulated by this Court.

For Petitioner
For Respondent

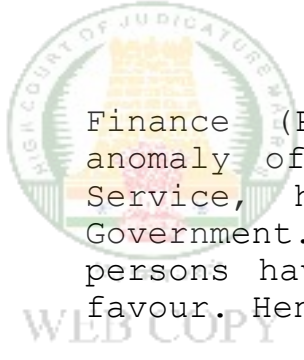
: Mr.G.Thalaimutharasu
: Mr.V.Anand
Government Advocate

ORDER

Seeking a direction to the respondents to consider the petitioner's representations, dated 11.06.2017 and 22.07.2017 with regard to re-fixation of pay on par with the petitioner's juniors, the present writ petition has been filed.

2.Heard the learned Counsel on either side and perused the materials available on record.

3.The case of the petitioner is that he was inducted into service as Grade-II Police Constable on 05.01.1981 and after periodical upgradation, finally, as Sub Inspector of Police, he retired from service on 31.01.2018. However, he received less pay than his juniors, who were inducted into service in 1986. Therefore, the petitioner made representations, dated 11.06.2017 and 22.07.2017 to re-fix his salary on par with his Juniors and the same are pending. In the meantime, the second respondent intimated the petitioner that he has sought for clarification from the Government in this regard. The petitioner has relied upon G.O.Ms.No.234,



Finance (Pay Cell) Department, dated 01.06.2009, wherein, the anomaly of pay among the seniors and juniors of the Government Service, has been clearly and categorically rectified by the Government. According to the petitioner, the similarly placed persons have approached this Court and obtained an order in their favour. Hence, he has come up with the present writ petition.

4. Upon instructions, the first respondent has filed a counter affidavit, the relevant portion of which reads as follows:

"4. With regard to averments made in Para-4 of the affidavit, it is submitted that the petitioner herein and to the 1st respondent herein on 22.07.2017 requesting to rectify the anomaly of pay and re-fix his pay on par with his juniors, namely, Tvl.S.Muthupatta and Immanuel Jeyasekaran. In this connection, it is submitted that the police personnel who appointed as Grade-II Police Constables and subsequently upgraded as Grade-I Head Constables and then upgraded as Special Sub Inspector of Police including the batchmates of the petitioner have submitted several representations to rectify their pay anomaly and re-fixation of their pay on par with their juniors. On perusal of records, it was found that the pay of some police personal who were upgraded as stated above, was fixed as per their opinion, to fix their pay till the date of actual of the next increment under fundamental Rule 22(1)a(i) in the lower rank and they pay of some personnel was directly fixed as per fundamental Rule 22(B) on the date of their upgradation without getting their opinion. Further it is submitted that the Government in their letter No.39839/POL.V/2007-3, dated 24.08.2007 have directed that Grade-II Police Constables who have completed 10 years service are deemed to have been upgraded and not promoted with reference to any promotional panel and therefore their pay shall be fixed under fundamental Rule 22(B) straightway on that date itself without getting any opinion. Therefore, the clarification has been sought for from the Government by the respondents herein in regard to rectification of pay anomaly and the orders of the Government are awaited."

5. The stand so taken by the respondents is stoutly refuted by the learned Counsel for the petitioner.

6. Under such facts and circumstances of the case, this Court, without going into the merits of the case, directs the respondents to consider the petitioner's representations, dated 11.06.2017 and 22.07.2017, and pass appropriate orders, on merits and in accordance with law and also in the light of G.O.Ms.No.234, Finance (pay Cell) Department, dated 01.06.2009, after affording opportunity of hearing to the petitioner, within a period of six weeks from the date of receipt of a copy of this order.



7. With the above direction, this writ petition is disposed of.
No costs.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Director General of Police,
Mylapore, Chennai - 600 004.

2. The Superintendent of Police,
Thoothukudi District, Thoothukudi.

+1cc to Mr.G.Thalaimutharasu, Advocate, SR.No.53628

+1cc to Special Government Pleader, SR.No.53634

ORDER MADE IN
W.P. (MD) No.9529 of 2018
11.03.2019

SP/26.04.2019/ 3P/5C