

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 11.12.2018	Delivered on 13.03.2019
---------------------------	----------------------------

CORAM:

THE HONOURABLE MR. **JUSTICE K.K.SASIDHARAN**

AND

THE HONOURABLE MR. JUSTICE P.D.AUDIKESSAVALU

W.A. (MD) Nos.1361 to 1364 of 2015

1.The Secretary to Government,
Rural development and Panchayat Raj Department,
Secretariat,
Chennai 9.

2.The District Collector,
Collectorate,
Karur

3.The Commissioner,
Rural Development & Panchayat Raj Department,
Panagal Building, Chennai 15

4.The Commissioner,
Block Development Office,
(Village Panchayat)
Kadavur Panchayat Union
at Tharampatti,
Karur District 621 311.

... Appellants/Respondents
in all Writ appeals

versus

Dharmar	... Respondent in WA No.1361/2015
K.Kanniyappan	... Respondent in WA No.1362/2015
R.Raja Rathinam	... Respondent in WA No.1363/2015
R.Chandrasekaran	... Respondent in WA No.1364/2015

Appeals filed against the order passed by this Court dated 7.7.2015 in W.P.(MD) Nos.740 to 743 of 2015.

Prayer in WP(MD). 740/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records pertaining to Na.Ka.Pa.Va 6/5604/2014 dated 31.12.2014 issued by the 2nd respondent and quash the same and directing the respondents to fix the pay scale as that of the similarly placed persons from the date of joining and refix the selection grade pay in the 9300/- band and pay all the consecutive benefits with arrears within a stipulated period.



For appellant : Mr.D.Muruganantham,
Additional Government Pleader
For Respondents : Mr.R.Lakshmanan (in all Appeals)

COMMON JUDGMENT

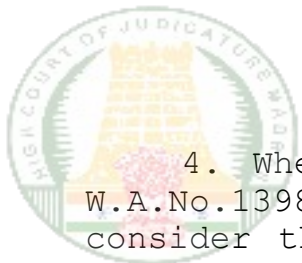
INTRODUCTORY :-

The learned Single Judge by order dated 7 July 2015, directed the appellants to refix the pay scale of the drivers by giving them scale of pay of Rs.9,300-3,500 with grade pay of Rs.4,200 in accordance with the judgment dated 1 September 2009 in W.A.Nos.383 to 391 of 2009. The very next day, viz., 8 July 2015, another Division Bench by judgment dated 8 July 2015, in W.A.Nos.1398 of 2013 batch, accepted the contentions of the State and by referring to the judgment dated 1 September 2009 in W.A.Nos.383 to 391 of 2009, upheld the contention taken by the Government and negatived the plea made by the drivers for sanctioning them the revised pay scale. The issue raised in the present appeals is therefore squarely covered by the judgment of the Division Bench dated 8 July 2015 in W.A.Nos.1398 of 2013 etc. batch.

The relevant facts:-

2. The claim made by the respondents, who were working as drivers, for sanctioning them revised pay scale taking into account the judgment dated 1 September 2009 in W.A.Nos.383 to 391 of 2009 was negatived by the District Collector, Karur. The order was challenged before the writ court. The learned Single Judge simply followed the earlier judgment and granted the benefits. The judgment in W.A.No.383 to 391 of 2009 dated 1 September 2009 was in operation while the Writ Petitions were decided by the learned Single Judge on 7 July 2015. There was no detailed factual adjudication of the issue in any of the earlier Writ Petitions or in the writ appeals.

3. The drivers in some of the administrative departments were given Special Grade Pay of Rs.5,000-8,000/-. However, other drivers were given the pay scale of Rs.4,300-6,000/-. The drivers have challenged the Government Order denying revision of pay scale and the grant of selection grade and special grade. The High Court by order dated 30 September 2008, in W.P.Nos.4288/2008 etc. batch, directed the Government to pass appropriate orders in respect of fixation of Selection Grade and Special Grade for drivers in various Government Departments. The said common order dated 30 September 2008 was challenged by the State before the Division Bench in W.A.Nos.383 to 391 of 2009. While dismissing the writ appeals, the Division Bench appears to have made certain observations. The subsequent orders passed by the learned Single Judge and the judgment of the Division Bench dated 1 September 2009 opened the flood gates, and Writ Petitions were filed in batches and batches at the instance of the drivers in various Government Departments. Some of the claims were allowed after taking the battle till the Hon'ble Supreme Court.



4. When a fresh batch of cases came up for consideration in W.A.No.1398/2013 etc. batch, the Division Bench made an attempt to consider the historical background of the case. The Division Bench found that there was no factual adjudication and the Benches, one after another, followed the earlier orders, without making any specific attempt to consider the nature of the relief claimed by the parties and their entitlement. The Division Bench after scanning the entire Government Orders and the various orders passed by the writ court as well as the Division Bench, ultimately held that there is no basis to grant the selection grade and special grade pay to the drivers.

5. We extract paragraphs 40, 42 and 43 of the judgment in W.A.No.1398 of 2013 batch.

40. In this case, we have gone through the Government Orders many times, to find out what scale of pay the drivers are entitled to, in the Selection and Special Grades. We are unable to find, however lenient our approach is, that the writ petitioners could legitimately lay a claim for a Selection Grade scale of pay of Rs.5000-8000 and Special Grade scale of pay of Rs.5500-9000. Therefore, what they have claimed and got in most of the previous decisions of this Court is not what they are lawfully entitled to. Once this is clear, it would follow as a natural consequence that the writ petitioners herein want only that illegality to be perpetrated. An illegality will not undergo a metamorphosis and become legal, merely because it received the seal of approval of a Court of law. Therefore, the third contention is also liable to be rejected.

...

42. Therefore, in the result, all the writ petitions filed by the individual employees claiming Selection Grade scale of pay of Rs.5000-8000 and Special Grade pay scale of Rs.5500-9000 are liable to be dismissed. However, there are a few writ petitions such as W.P.Nos.23550 of 2010, 5498 of 2012 and 30616 of 2012, where the employees claim that they are not even granted the admissible Selection Grade and Special Grade scales pay of Rs.4000-6000 and Rs.4300-6000 respectively.

43. Therefore, with a clarification that all the petitioners in the writ petitions and the respondents in the writ appeals are entitled only to a Selection Grade scale of pay of Rs.4000-100-6000 and a Special Grade scale of pay of Rs.4300-100-6000, but not more than that, all the writ petitions filed by the employees are dismissed. All the writ appeals filed either by the State Government or by various Heads of Departments or by various officers of the Government or by various Local Bodies or Boards or Corporations, shall stand allowed.



There will be no order as to costs.

6. There was no factual discussion of the matter in the earlier order passed by the learned Single Judge. Similarly, there was no independent consideration of the claim in the appeal in W.A.No.383 to 391 of 2009. It was only subsequently, the Division Bench in its judgment dated 8 July 2015 considered the entire factual background and arrived at a decision. We are bound to follow the said judgment as it contain a detailed discussion of the factual matrix with reference to various Government Orders. We are therefore of the view that the appellants must succeed.

7. The common order dated 7 July 2015 is set aside. The Writ Petitions filed by the respondents are disposed of by directing the appellants to grant them selection grade pay of Rs.4000-100-6000 and Special Grade pay of Rs.4,300-100-6000.

8. The intra court appeals are allowed to the extent indicated above. No costs. Consequently, connected M.P.No.2 of 2015 is closed.

Sd/-

Assistant Registrar(AD-I)

/True Copy/

Sub Assistant Registrar(CS-)

To

1.The Secretary to Government,
Rural development and Panchayat Raj Department,
Secretariat,
Chennai 9.

2.The District Collector,
Collectorate,
Karur

3.The Commissioner,
Rural Development & Panchayat Raj Department,
Panagal Building, Chennai 15

4.The Commissioner,
Block Development Office,
(Village Panchayat)
Kadavur Panchayat Unionat Tharampatti,
Karur District 621 311.

Judgment in

W.A. (MD) Nos.1361 to 1364 of 2015

13.03.2019