



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

CORAM:

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A. (MD) No.148 of 2019

and

C.M.P. (MD) No.1114 of 2019

in

WP (MD) No.10288 of 2014

1) The Managing Director,
Tamil Nadu Minerals Ltd.,
Chepauk,
Chennai 600 005

2) The Factory Manager,
Tamil Nadu Minerals Ltd.,
Senthudayanathapuram,
Melur Road,
Sivagangai

... Appellants/ RR 2 & 3 in
W.P. (MD) No.10288 of 2014

Vs.

1) P.Periyasamy

2) N.Ramachandran

3) R.Ganesan

4) A.P.Nagarajan

... RR 1 to 4 / Petitioners in
W.P. (MD) No.10288 of 2014

5) The Secretary to Government,
Industries (MME-1) Department,
Secretariat,
Chennai 600 009

... R5/ R1 in W.P. (MD)
No.10288 of 2014

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent Act against the order dated 08.02.2018 made in W.P. (MD) No.1-288 of 2014.

Prayer in WP (MD). 10288/ 2014 :

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 of the second



respondent i.e the Managing Director, TAMIN, Chennai relating to his letter No. RC. 504/E4/14 dated 11.02.2014 and quash the same and consequently direct the first and second respondents to fix the scale of pay in respect of the petitioners as Rs.9300-34800+4200 in the Selection Grade notionally with effect from 01.01.2006 and with monetary benefit from 01.04.2013 within a specified time frame that may be fixed by this Honble high Court.

For Appellants : Mr.N.Shanmugaselvam,
Additional Government Pleader

For RR 1 to 4 : Mr.K.K.Senthilvelavan
For Mr.V.S.Kumaraguru

J U D G M E N T

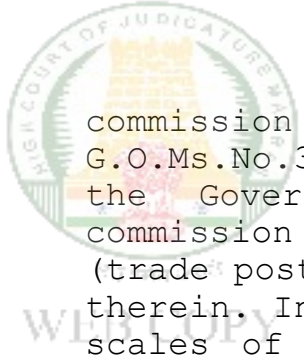
(Judgment of the Court was made by SENTHILKUMAR RAMAMOORTHY, J.)

1. The Appellants are the second and third Respondents in the Writ Petition. The Writ Petition was filed by the 1st to 4th Respondents herein to quash the letter dated 11.2.2014 of the first Appellant and to consequently direct the fifth Respondent and first Appellant to fix the scale of pay of the 1st to 4th Respondents as Rs.9300-34800+4200 in the selection grade notionally with effect from 1.1.2006 and with monetary benefits from 1.4.2013 within a specified time. The said Writ Petition was allowed by Order dated 08.02.2018 whereby the Respondents therein were directed to fix the pay scale of the 1st to 4th Respondents herein in the selection grade at the requested scale with effect from 1.01.2006 and with monetary effect from 1.04.2013. In the said Order, the aforesaid exercise was directed to be completed within a period of eight weeks from the date of receipt of a copy of the Order. The said Order is impugned in this Writ Appeal.

2. The 1st to 4th Respondents work as plumbers in the Tamil Nadu Minerals Ltd. (TAMIN). All of them were sponsored by the District Employment Exchange, Sivagangai. They joined duty in May 1994 and upon completion of 10 years of service, they were given selection grade. By G.O.Ms.No.234 Finance (Pay Cell) Department dated 01.06.2009 (G.O. Ms.No.234), it was decided by the Government that selection grade/special grade scales of pay, as specified in Annexure 1 to the said G.O., would apply to cases where the scales of pay of ordinary grade posts were revised based on the recommendations of the one-man commission and subsequent government orders.

<https://hcservices.ecourts.gov.in/hcservices/>

3. Thereafter, pursuant to the establishment of a one-man



commission and the recommendation of the said commission, by G.O.Ms.No.338 Finance (Pay Cell) dated 26.08.2010 (G.O.Ms.No.338), the Government accepted the recommendations of the one-man commission and revised the scales of pay of technical categories (trade posts) in all government departments/ local bodies as stated therein. In G.O.Ms.No.338, it was also provided that the revision of scales of pay shall take notional effect from 1.01.2006 for the purpose of fixation of pay in the revised scales of pay and with monetary effect from 1.08.2010. Thereafter, a Pay Grievance Redressal Cell was constituted to examine representations from employees' associations/heads of department/individual employees regarding pay anomalies and the terms of reference thereof was fixed by G.O.Ms.No.123 Finance (Pay Cell) dated 10.04.2012 (G.O.Ms.No.123).

4. On the basis of the recommendations of the Pay Grievance Redressal cell, G.O.Ms.No.325 Finance (Pay Cell) dated 22.07.2013 (G.O.Ms.No.325) was issued whereby revision of scales of pay was recommended for Grade-II trade posts in all departments. Accordingly, the revised scale of pay for the said Grade-II trade posts in all government departments, including local bodies, was re-fixed as Rs.5200-20200 + 2400. Pursuant to G.O.Ms.No.234, G.O.Ms.No.338 and G.O.Ms.No.123, G.O.Ms.No.247 Finance (Pay Cell) dated 22.07.2013 (G.O.Ms.No.247) was issued so as to extend the benefit of the said Governmental Orders to front office assistants and electricians/plumbers in the State guest houses. Thereafter, representations were submitted by plumbers employed in TAMIN requesting that the said benefit should be extended to plumbers in the selection grade in TAMIN. The said request was rejected by the impugned communication dated 11.02.2014 on the basis that G.O.Ms. No.247 only applies only to the two categories of employees in the State guest houses. The said order was impugned in the Writ Petition on the basis that it is arbitrary and a result of non-application of mind.

5. The learned Additional Government Pleader submitted that the Order of the Writ Court is liable to be set aside because the order dated 11.02.2014 is in consonance with G.O.Ms.No.247 in terms of which the benefit of revision of scales of pay was extended only to certain categories of employees in the State guest house. In view of the fact that the employees of TAMIN are not employees in the State guest house, the request of the employees of TAMIN for revision of pay scales on the basis of the aforesaid Government Order could not be acceded to. Consequently, he submitted that the Writ Court erred in quashing the impugned letter and in directing that the revised pay scale be given to the 1st to 4th Respondents herein.

6. On the contrary, the learned counsel for Respondents 1 to 4 submitted that the decision to extend the benefit of revision of scales of pay only to employees of the State guest house is arbitrary and contrary to the preceding Government Orders, which are applicable to all government departments and local bodies.



Consequently, it was submitted that the Order of the Writ Court is not liable to be interfered with.

7. We carefully considered the affidavits, documents on record and the oral submissions of both sides. It is very clear from G.O.Ms. No.234 that the revised selection grade and special grade scales of pay, as set out in Annexure-1 thereto, would apply in cases where the scales of pay in the ordinary grade posts were revised based on the recommendations of the one-man commission and subsequent government orders. In this case, pursuant to the recommendations of the one-man commission, the Government revised the scales of pay of technical categories (trade posts) in all government departments/local bodies as specified in G.O.Ms.No.338. Consequently, the Respondents 1 to 4 herein would be eligible for the benefit of revised scales of pay applicable to those in selection grade posts as indicated in Annexure -1 of G.O.Ms.No.234. However, by letter dated 11.02.2014, the request for fixation of revised scales of pay was rejected on the basis that G.O. Ms.No.247 only applies to those employed in State guest houses.

8. On examining the above mentioned sequence of Government Orders, it is clear that Respondents 1 to 4 would be eligible for revised scales of pay in the selection grade notionally with effect from 1.01.2006 and with monetary benefits from 1.04.2013 as correctly concluded in the impugned Order dated 8.02.2018 of the Writ Court. Consequently, we do not find any infirmity in the said Order. The denial of the benefit of revised scales of pay, as applicable to those in the selection grade, to Respondents 1 to 4 herein is contrary to preceding Government Orders and would be arbitrary and discriminatory. For the aforesaid reasons, this Writ Appeal is liable to be dismissed.

9. As a result, the Writ Appeal is dismissed and the Order of the Writ Court is affirmed. Consequently, the Appellants are directed to refix the scales of pay of Respondents 1 to 4 herein with notional and monetary benefits as indicated in the Order of the Writ Court within a period of eight weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)



To

The Secretary to Government,
Industries (MME-1) Department,
Secretariat,
Chennai 600 009

+4 CC to M/s.K.K.SENTHILVELAN, Advocate (SR-77333[F] dated 24/07/2019)

+1 CC to M/s.SPL GP (SR-77747[F] dated 25/07/2019)

Judgment made in
W.A. (MD) No.148 of 2019
Dated:
24.07.2019

KK/SAR/08.08.2019/5P-7C/