



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 28.01.2019

PRONOUNCED ON : 27.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE **R.SUBBIAH**

and

THE HONOURABLE MR. JUSTICE **B.PUGALENDHI**

W.P. (MD) No.14209 of 2017

and

W.M.P. (MD) No.11110 of 2017

Tamil Nadu Judicial Bailiffs /
Senior Bailiffs Association,
Having its State Center at Srivilliputhur,
Virudhunagar District.
Rep. by its President
V.Marimuthu

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Home (Courts V) Department,
Fort St.George,
Chennai - 600 009.
- 2.The Registrar General,
High Court of Judicature of Madras,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus to call for the records relating to impugned order passed by the first respondent in G.O.Ms.No.82, Home (Courts V) Department, dated 23.01.2017, quash the same and consequently direct the first respondent to re-fix / revise the pay of Bailiffs / Senior Bailiffs from Rs.3200-85-4900 to Rs.4000-100-6000 with effect from 01.04.2003.

For Petitioner : Mr.C.Arul Vadivel @ Sekar
for Mr.R.V.Rajkumar

For Respondents : Mr.V.R.Shanmugathan,
Special Government Pleader for R.1

**O R D E R****B.PUGALENDHI, J.,**

Tamil Nadu Judicial Bailiffs / Senior Bailiffs Association has filed this writ petition as against the Government Order in G.O.Ms.No.82, Home (Courts V) Department, dated 23.01.2017, insofar as the re-fixation of the pay of Bailiffs is concerned and for a consequential direction to refix / revise the pay of Bailiffs / Senior Bailiffs from Rs.3200-85-4900 to Rs.4000-100-6000 with effect from 01.04.2003.

2. The petitioner association has already filed a writ petition in W.P.(MD)No.12698 of 2010 for a Writ of Mandamus to direct the respondents to refix / revise the pay of Bailiffs / Senior Bailiffs from Rs.3200-85-4900 to Rs.4000-100-6000 with effect from 01.04.2003. The said writ petition was disposed of by the First Bench of this Court on 01.12.2016 in the following terms:

"A plea is sought to be taken in the counter affidavit that no recommendation, as claimed for by the petitioner, was made in respect of Senior Bailiffs and thus the recommendation has been implemented in respect of Junior Bailiffs.

2. The learned Counsel for the petitioner has drawn out attention to the relevant portion of Shetty Commission's Recommendations, dealing with the cadre of Bailiffs, where the class consists of two cadres, viz., Process Servers and Senior Bailiffs. The pay scale is recommended as admissible to Assistant / LDC in the respective States be given to the cadre of Bailiffs / Head Bailiffs.

3. In the nomenclature used in the State of Tamil Nadu, as apparent from the counter affidavit itself, Junior Bailiff is only Process Server and Senior Bailiff is Bailiff.

4. In view of the aforesaid position emerging from the records, the State Government shall take necessary action and pass appropriate orders within a period of two months from today. The petition stands disposed of. No order as to costs."

3. Pursuant to the directions of this Court in W.P.(MD)No.12698 of 2010, the impugned Government Order in G.O.Ms.No.82, Home (Courts V) Department, dated 23.01.2017, has been passed, but negating the claim of the petitioner Association stating that the existing pay scale of the Bailiffs is in conformity with the recommendation of Justice Shetty Commission. Aggrieved over the same, this writ petition has been filed for the aforesaid relief.

4. Heard Mr.C.Arul Vadivel @ Sekar, learned Counsel for Mr.R.V.Rajkumar, learned Counsel on record for the petitioner; Mr.V.R.Srinivasan, learned Special Government Pleader for the first respondent and Mr.N.Mohideen Basha, learned Counsel for the second respondent.



5. The learned Counsel for the petitioner has raised the following points for the consideration of this Court:

5.1. The post of Bailiffs was known as Amins and subsequently renamed as Senior Bailiffs and after Justice Shetty Commission recommendation, renamed as Bailiffs.

5.2. The Senior Bailiffs are doing the most important duties of the judiciary such as delivery of possession of properties, execution of arrest warrants, execution of attachment warrants relating to movable and immovable properties, assessing the value of properties by testing the same apart from handling all sides of work in the Nazareth Section.

5.3. The denial of benefits to Bailiffs as per Justice Shetty Commission, though was made available to Process Servers / Junior Bailiffs, are not proper.

5.4. The learned Counsel would point out that in cases where the Process Establishment consists of two cadres, viz., Process Servers + Bailiffs, the appointment to the cadre of Bailiffs is made either by promotion or by direct recruitment. The promotion is from the cadre of Process Servers or Process Server / Attender / Peon. In this connection, the learned Counsel referred to the Recommendations of Justice Shetty Commission, insofar as the Pay Scale is concerned and the same is extracted hereunder:

"OUR RECOMMENDATIONS

A. THE CADRE OF BAILIFF WHERE THE PROCESS ESTABLISHMENT CONSISTS OF TWO CADRES, viz., PROCESS SERVERS AND BAILIFFS.

...(iii) Pay Scale

We recommend that the same pay scales which are admissible to the Assistant / LDC in the respective States / UTs be given to the cadre of Bailiffs / Amins / Head Bailiffs / Sale Amin."

6. Per contra, the learned Special Government Pleader appearing for the first respondent submitted that in compliance with the orders passed by this Court in W.P.(MD)No.12698 of 2010, the Government has examined the request of the petitioner Association and vide the impugned Government Order, rejected their request, since the Bailiffs in the State are drawing the pay of Junior Assistants / LDC even prior to 01.04.2003 and that Justice Shetty Commission has also observed / recommended that the existing pay of Bailiffs in the State of Tamil Nadu is in conformity with their general recommendation.

7. This Court has considered the rival submissions made on either side and has perused the documents placed on record.

8. No doubt, Justice Shetty Commission, in its general recommendations, has recommended that the pay scales which are admissible to the Assistant / LDC in the respective States / UTs be given to the cadre of Bailiffs / Amins / Head Bailiffs / Sale Amin. But, it is the case of the Department that the pay scale of Junior Assistant has already been given to Bailiff / Senior Bailiff even



prior to the cut off date fixed by the Commission and thus, the recommendation of the Commission has already been complied with and implemented.

9. The general recommendations made by Justice Shetty Commission is with regard to all over the States around India and there is a specific recommendation with regard to the State of Tamil Nadu under Chapter XVIII of its report, wherein, it is stated that the existing pay scale of Rs.3200-4900 is in conformity with their general recommendation. For better appreciation, the relevant portion is extracted as follows:

*CHAPTER XVIII
RECOMMENDATIONS RELATING TO TAMIL NADU - PART II
Cadre wise Recommendations*

...

(2) SENIOR BAILIFFS : They may be termed as Bailiffs.

Qualification	Since SSC / Matriculation is the qualification already prescribed, no recommendation is made.
Mode of Recruitment	Mixed cadre - ie., by direct recruitment and by promotion of Process Servers. Percentage between direct recruitment and promotion may be determined by the High Court.
Recommended Pay Scale	<u>The existing pay scale of Rs.3200-4900 is in conformity with our general recommendation.</u>

10. The petitioner association is seeking revision of pay scale based on Justice Shetty Commission, but the Commission itself, though made some recommendations, has reported that the existing pay scale in the State of Tamil Nadu is in conformity with its recommendations. Therefore, we found no reason to interfere with the impugned Government Order in G.O.Ms.No.82, Home (Court V) Department, dated 23.01.2017.

11. In the result, this writ petition fails and the same is accordingly, dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

gk



To

1.The Principal Secretary,
Government of Tamil Nadu,
Home (Courts V) Department,
Fort St.George,
Chennai - 600 009.

2.The Registrar General,
High Court of Judicature of Madras,
Chennai.

+1 CC to Mr.R.V.RAJKUMAR, Advocate SR.No.64369.

+1 CC to SPL GP SR.No.64727.

**W.P. (MD) No.14209 of 2017
and
W.M.P. (MD) No.11110 of 2017
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CS: (07/06/2019) 5P 5C