



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2019

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

W.A. (MD) No.1027 of 2019

N.Chandrasekaran

... Appellant

-vs-

1.The State represented through its
Principal Secretary,
Social Welfare & Nutritious Programme Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Social Welfare,
O/o.The Director of Social Welfare,
Panagal Maligai 2nd Floor, No.1, Jeenai Road,
Saidapet, Chennai - 600 015.

3.The District Social Welfare Officer,
O/o.The District Social Welfare Office,
K.K.Nagar, Madurai - 20.

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 16.02.2018, made in W.P.(MD) No.961 of 2018, on the file of this Court.

Prayer in WP(MD). 961/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified of Mandamus calling for the records of the 2nd respondent under the proceedings Na.Ka.No.38481/Nir 6(1)/2013 dated 29.07.2015 and quash the same as void, illegal and direct the respondents 1 and 2 herein to re-fix the scale of pay of Rs.8825/- + Rs. 100P.P. on par with the junior of the petitioner with effect from 02.02.2001 and pay arrears thereon in the light of the proposal sent by the 2nd respondent to the 1st respondent vide his proceedings Na.Ka.No.38481/No 6(1)/2012 dated 26.12.2014 within a time frame as may be fixed by this Honble Court

For Appellant : Mr.M.Ponniah



For Respondents

: Mr.A.Muthukaruppan
Additional Government Pleader

J U D G M E N T

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.M.Ponniah, learned counsel appearing for the appellant and Mr.A.Muthukaruppan, learned Additional Government Pleader appearing for the respondents.

2.The Writ Appeal is directed against the order of this Court dated 16.02.2018, made in W.P.(MD) No.961 of 2018.

3.The appellant filed the Writ Petition praying for the issuance of a Certiorarified Mandamus to quash the order passed by the second respondent dated 29.07.2015 and to refix the Scale of pay of the appellant on par with his Junior one Murugesan.

4.The undisputed facts are that the appellant was appointed as Junior Assistant in the Employment and Training Department in the year 1976. Subsequently, his services were brought to Social Welfare Department and he was appointed as Assistant and his services were regularized in the said post in the year 1982. The appellant contented that his pay has to be stepped up on par with his junior who is working in the Social Welfare Department. It is the contention of the learned counsel for the appellant that it may be true that the appellant exercised option to come over to Social Welfare Department by taking the benefit granted by G.O.Ms.No.263, Social Welfare and Nutritious Meal Programme (SW.I) Department, dated 27.09.1994. Though the petitioner had exercised the option and had come over and posted in the Social Welfare Department and although he lost the seniority in the department, his pay needs to be stepped up to the level of his Junior in the Social Welfare Department. The learned Writ Court did not agree with the said contention and dismissed the Writ Petition.

5.We are to test the correctness of the order of the Writ Court. After elaborately hearing the learned counsel on either side and after carefully perusing the materials placed on record, we find that the said Murugesan was working in the Social Welfare Department was already receiving higher salary before the appellant was absorbed in the Social Welfare Department pursuant to the option exercised under G.O.Ms.No.263 dated 27.09.1994. Therefore, the question of application of FR 22 for stepping up of pay does not arise to the case of the petitioner. Therefore, we are of the view that the Writ Court is right in refusing to grant the relief sought for by the petitioner in the Writ Petition.



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4.In the light of the above, the Writ Appeal is dismissed. No costs.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar (CS)

sj

To

1.The Principal Secretary,
Social Welfare & Nutritious Programme Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Social Welfare,
O/o.The Director of Social Welfare,
Panagal Maligai 2nd Floor, No.1, Jeenis Road,
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3.The District Social Welfare Officer,
O/o.The District Social Welfare Office,
K.K.Nagar, Madurai - 20.

+1 CC to M/s.M.PONNIAH, Advocate (SR-91873[F] dated 15/10/2019)

+1 CC to M/s.SPL GP (SR-92105[F] dated 16/10/2019)

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