



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2019

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD) No. 15851 of 2014

K.Balakrishnan

... Petitioner

Vs.

1. The State of Tamil Nadu,
rep by the Secretary to Govt.,
Finance Department,
Secretariat, Chennai-600 009.
2. The State of Tamil Nadu,
rep by the Secretary to Government,
Home Department,
Secretariat, Chennai-600 009.
3. The Director General of Police,
Mylapore,
Chennai-600 004.
4. The Superintendent of Police,
Dindigul District,
Dindigul.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd and 3rd respondents to consider the petitioner's case for adding the Military service rendered by him in the present service for the purpose of stepping up of Grade pay in view of the judgment rendered by the Hon'ble Division Bench of Kerala High Court in Writ Appeal No.1308 of 2008 dated 01.03.2010 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.M.Jeyakumar
Additional Government Pleader



ORDER

The relief sought for in the present writ petition is for a direction to direct the respondent Nos. 2 and 3 to consider the petitioner's case for adding Military service rendered by him in the present service for the purpose of stepping up of Grade pay and pay in view of the judgment rendered by the Kerala High Court in Writ Appeal No.1308 of 2008 dated 01.03.2010.

2.The writ petitioner was appointed as Grade-II Police Constable(Driver) on 18.02.2013. Before entering into the Tamil Nadu Police Service, the writ petitioner was in Military service and after rendering 17 years of unblemished services, he joined as Grade-II Police Constable(Driver) in the Tamil Nadu Police Service.

3.The learned counsel for the writ petitioner states that the Kerala High Court granted the benefit of stepping up of grade pay by adding the Military services rendered by the personnel, who joined in the State Police Services subsequently.

4.The learned Additional Government Pleader appearing on behalf of the respondents state that as per the Government Rules in force, there is no provision for adding the Military services rendered by the Ex-serviceman for the purpose of stepping up of grade pay. In the absence of any such special scheme, the case of the writ petitioner cannot be considered.

5.This Court is of the considered opinion that the service condition of Kerala Police Service cannot be compared with the service condition of the Tamil Nadu Police Service. Each State has got own Rules, in respect of the State Police Services are concerned, when this Court asked a question whether the writ petitioner is receiving a Military pension, the learned counsel for the writ petitioner made a submission that the writ petitioner is receiving a Military pension and other benefits attached to the services rendered by him as a Military man. Therefore, there cannot be counting of the services therein and the pensionary benefits had already been granted to the writ petitioner. In other words, two benefits cannot be granted in respect of one services rendered by the writ petitioner in Indian Military. However, regarding stepping up of pay under a special scheme, it is the prerogative of the Government to take a policy decision and the Court cannot interfere with any such decision if taken for granting further benefits to the ex-serviceman, who joined in the Tamil Nadu Police Services.



6. Even as per Rule 16 of the Tamil Nadu Pension Rules, there are certain conditions for counting of the Military services rendered before civil employment. However, the writ petitioner as of now is in service and those circumstances would arise in respect of the settlement of pension only after attaining the age of superannuation. However with reference to the relief sought for by the writ petitioner for counting of the Military services for stepping up of pay and grade pay, this Court is of the considered opinion that the Court cannot issue any direction for constitution of any such scheme or up-gradation of pay, which is an administrative prerogative of the Government. In the event of formulating any such special scheme for ex-serviceman then alone, the writ petitioner can claim any such stepping up of grade pay or pay by counting the Military service and not otherwise.

7. As per the existing Rules, whatever benefits extended to the ex-serviceman is to be extended to the writ petitioner and any other additional benefits, which is not contemplated, is to be granted only if a policy decision is taken by the Government and not otherwise.

8. This Court is of the considered opinion that what is not available in respect of the grade pay or revision of pay or monetary benefits, the Court cannot grant in a writ proceedings. The monetary implications of the state has to be considered, while passing such an order by the Courts, the Court cannot decide the monetary benefits to be extended in the absence of any specific Rules in this regard with reference to a particular service.

9. Accordingly, the relief as such sought for stepping up of pay and grade pay cannot be granted. This writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Secretary to Government,
State of Tamil Nadu,
Finance Department,
Secretariat, Chennai-600 009.



2.The Secretary to Government,
State of Tamil Nadu,
Home Department,
Secretariat, Chennai-600 009.

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

4. The Superintendent of Police,
Dindigul District,
Dindigul.

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-77167[F] dated
24/07/2019)

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23.07.2019

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AE/ (09.08.2019) 4P 6C