



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE **S.S.SUNDAR**

W.P. (MD) No. 3162 of 2015

G.Vijayakumar

... Petitioner

Vs.

The Managing Director,
Tamil Nadu Minerals Limited,
No.31, Kamarajar Salai,
TWAD House, Chepauk,
Chennai-600 005.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent in R.C.No.8518/IR1/2014, dated 12.02.2015 and quash the same and further direct the respondent to revise the petitioner's pay in accordance with G.O.Ms.No.338, dated 26.08.2010, within the time stipulated by this Court.

For Petitioner	:	Mr.N.Tamilmani
For Respondent	:	Mr.Rajakarthikeyan Standing Counsel

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to quash the impugned order, passed by the respondent, dated 12.02.2015 and to direct the respondent to revise the petitioner's pay in accordance with G.O.Ms.No.338, Finance (Pay Cell) Department, dated 26.08.2010.

2. The petitioner was appointed as an un-skilled labour in the respondent Office on 17.08.2009. The petitioner was receiving only a consolidated pay on daily wage basis. It is admitted that the petitioner was receiving salary in the pay scale of Rs.4,800/- with effect from 01.10.2010. The State Government issued G.O.Ms.No.338, Finance (Pay Cell) Department, dated 26.08.2010, revising the pay scale from Rs.4,800/- to Rs.5,200/- with annual increment of 3% in the basic pay. It is further stated that the petitioner's pay was not revised with effect from 01.10.2010, in terms of G.O.Ms.No.338, Finance (Pay Cell) Department, dated 26.08.2010. It is further stated that the petitioner's salary was fixed at Rs.7,100/- from 01.10.2010 and however, the petitioner was



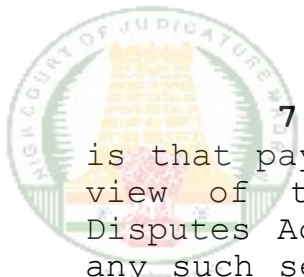
given salary only at Rs.6,650/- from 01.10.2014 instead of Rs.8,200/-.

3. Earlier, the petitioner filed a Writ Petition in W.P. (MD).No.14654 of 2014, before this Court and this Court directed the respondent to consider and dispose of the petitioner's representation, dated 24.06.2014, on merits. The petitioner's representation was rejected by the impugned order dated 12.02.2015. In the impugned order, the respondent has stated that the employer / respondent and the petitioner / employee arrived at a settlement between them on 07.01.2010 and that as per the settlement, the petitioner was brought to the pay scale on par with staff / officers with effect from 01.01.2006.

4. The learned Standing Counsel appearing for the respondent submitted that the petitioner has received the monetary benefit after the revision of pay in terms of the settlement. It is contended by the respondent that the petitioner has received the revision of pay and therefore, he is not entitled to claim the benefit once again as per G.O.Ms.No.338, Finance (Pay Cell) Department, dated 26.08.2010.

5. The learned Standing Counsel appearing for respondent, on instructions, submitted that G.O.Ms.No.338, Finance (Pay Cell) Department, dated 26.08.2010, is not applicable to the petitioner. It is the case of the respondent that the said Government order was intended to favour only the technical employees of the respondent and that therefore, the petitioner's claim based on G.O.Ms.No.338 is not sustainable.

6. From the reading of G.O.Ms.No.339, Finance (Pay Cell) Department, dated 26.08.2010, it is seen that the Government constituted One Man Commission to examine anomaly that has arisen following the implementation of the recommendation of the 2009 Official Committee. Accepting the recommendations of the One Man Commission, the Government has directed to revise the scale of pay of the technical categories (Trade posts) in all the Government Departments. The Government accepted the recommendation to merge the un-skilled and semi-skilled employees existing in the trade posts in different scales of pay. It is mentioned in G.O.Ms.No.338, that the category of un-skilled assistants would become defunct as and when the existing incumbents vacate the posts. However, the revision of pay scale applicable to trade posts (skilled or semi-skilled) were also given to all other trade post, who were re-designated as un-skilled even in the Government order. As per Government order, the pay band for all other employees was fixed at Rs.5,200/- + grade pay of Rs.1,900/-.



7. The stand taken by the respondent in the impugned order is that pay was granted to the petitioner prior to G.O.Ms.No.338 in view of the settlement under Section 18(1) of the Industrial Disputes Act, 1947. The learned Standing counsel has not produced any such settlement. From the Government order vide G.O.Ms.No.338, Finance (Pay Cell) Department, dated 26.08.2010, which is subsequent to the so-called settlement, there is no reference to any settlement. The recommendation of the One Man Commission was accepted to revise the pay scale for all trade posts. The petitioner as a semi skilled labour is entitled to get the salary of Rs.5,200/- and grade pay with effect from 01.10.2010, as per the Government Order. Hence, the order impugned in the Writ Petition is un-sustainable and accordingly, it is set aside.

8. The learned counsel appearing for the petitioner relied upon a judgment of this Court in **W.P. (MD).No.10288 of 2014**, dated 08.02.2018 in the case of **P.Periyasamy and others Vs. The Secretary to Government, Industries (MME-1) Department, Secretariat, Chennai-600 009 and another**. The issue arose therein was regarding to the pay payable to the petitioner therein in the selection grade with effect from 01.01.2006 and not in terms of G.O.Ms.No.338, Finance (Pay Cell) Department, dated 26.08.2010. Hence, it is not applicable to the facts of the present case.

9. The Writ Petition stands allowed and the respondent is directed to revise the pay scale of the petitioner in accordance with G.O.Ms.No.338, Finance (Pay Cell) Department, dated 26.08.2010, within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

Tsg
TO
The Managing Director,
Tamil Nadu Minerals Limited,
No.31, Kamarajar Salai,
TWAD House, Chepauk, Chennai-600 005.

+1CC TO MR.N.TAMILMANI, Advocate Sr. No. 99284

Order made in

W.P. (MD) No. 3162 of 2015

Dated: **18.11.2019**

NS (CO)

TR (06.12.2019) 3P 3C