



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P (MD) No.10585 of 2013

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M.Nagaboopathy

... Petitioner

Vs

1.The Director of Veterinary Services,
Chennai-6.

2.The Regional Director,
Animal Husbandry Department,
Thanjavur.

3.The Veterinary Surgeon,
Veterinary Hospital,
Manapparai, Trichy District.

4.The Principal Accountant General,
(A & E), Tamil Nadu,
361 Annasalai, Thenampet,
Chennai-18.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents herein to fix the salary of the petitioner herein at Rs.8900/- as basic pay in the post of Senior Veterinary Live Stock Supervisor with effect from 13.10.2001 and grant him all consequential retirement benefits with 18% interest from the date of retirement.

For Petitioner : Mr.V.Ilanchezian

For R1 to R3 : Mr.D.Muruganantham
Additional Government Pleader

For R4 : Mr.P.Gunasekaran

ORDER

The relief sought for in the present writ petition is for a direction to direct the respondents herein to fix the salary of the petitioner herein at Rs.8900/- as basic pay in the post of Senior Veterinary Live Stock Supervisor with effect from 13.10.2001.

2. The fixation of pay is to be done with reference to the pay rules as well as the Government Orders in force. The Court cannot undertake the process of fixation of scale of pay to the employees. Fitment table is applicable to the particular cadre/posts are to be verified and accordingly, pay fixation is to be done. Only in the



event of violation of the Fitment table then alone, the Court can verify the correctness or otherwise while exercising the power of judicial review. In all other circumstances, the establishment of the respondents have to ascertain the correctness of the fixation with reference to the rules and accordingly pay the salary to the employees concerned.

3. The grievance of the writ petitioner is that his scale of pay as applicable to the post of Senior Veterinary Live Stock Supervisor has not been granted with effect from 13.10.2011. However, the petitioner was retired from service on 30.06.2003. Though the writ petitioner was retired from service in the year 2003, the present writ petition is filed 27th day of June 2013 after a lapse of 10 years from the date of retirement. Thus, the Government Employee who has slept over his rights cannot wake up one fine morning and knock the doors of the Court for the purpose of redressal of his grievances. In pay fixation admittedly, pay anomaly arose as per the writ petitioner during the year 2001 and even after retirement, he has not approached the authorities for the purpose of redressal of his grievances. An employee, who was allowed to retire from service in the year 2003, has filed a writ petition in the year 2013 at the age of 68 years. Now, the writ petitioner would be around 74 years. Such a claim made after a lapse of many years cannot be entertained at all. However, the respondents can verify the correctness of the fixation of pay with reference to the rules in force. As far as the relief sought for in the present writ petition is concerned, it is to be rejected firstly on the ground of laches and secondly on the ground that such pay fixation with retrospective effect cannot be granted by way of direction under Article 226 of the Constitution of India. Verification of pay particulars and scale of pay under fitment table are to be taken into account.

4. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar (CS-)

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To

1. The Director of Veterinary Services,
Chennai-6.

2. The Regional Director,
<https://hcservices.ecourts.gov.in/hcservices/>
Animal Husbandry Department,
Thanjavur.



3.The Veterinary Surgeon,
Veterinary Hospital,
Manapparai, Trichy District.

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- +1 CC to M/s.P.GUNASEKARAN, Advocate
(SR-73311[F] dated 04/07/2019)
- +1 CC to M/s.SPL GP (SR-73492[F] dated 04/07/2019)
- +1 CC to M/s.V.ILLANCHEZIAN, Advocate (SR-73246[F] dated 04/07/2019)

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ES/15.07.2019/3P/7C