

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.10283 of 2013

and

M.P.No.1 of 2013 & WMP.No.34513 of 2017

V. Srinivasan

... Petitioner

/Vs/

1.The Government of Tamilnadu,
rep. by its Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai 600 009.

2.The Director of Medical Education,
Kilpauk, Chennai 600 010.

3.Tamilnadu Dental College and Hospital,
rep. by its Principal,
Chennai 600 003.

.... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents especially the third respondent for the stepping up of the petitioner's scale of pay at Rs.1100-1660 instead of Rs.950-1500 eligible to "Electrician Grade-II" pursuant to G.O.Ms.No.548, Finance (Pay Cell) Department, dated 01.08.1992 apart from duly implementing G.O.Ms.No.511, Finance (Pay cell) department, dated 01.08.1992, re-designating the post held by the petitioner as 'Electrician Grade-I' from 'Electrician Grade-II', besides stepping up of his pay scale from Rs.1100-1660 to Rs.4500-7000 pursuant to G.O.Ms.No.1704 Education (G-2) department, dated 21.12.1990 making him eligible to draw the arrears of the difference in the respective scales of pay apart from promoting him as 'Supervisor' or 'Junior Engioneer 'with effect from January 2012, the available cadre for promotion in the light of the law laid down by the Hon'ble Supreme Court with all monetary and service benefits.

For Petitioner : Mr. A. Amal Raj

For Respondents : Mr. S. KarthikaiBalan
Gov. Pleader

O R D E R

This writ petition has been filed seeking a direction to the third respondent for stepping up of petitioner's scale of pay at Rs.1100-1660 instead of Rs.950-1500 eligible to the Electrician Grade-II post, pursuant to G.O.Ms.No.548 (Finance (Pay Cell) Department, dated 01.08.1992) apart from implementing G.O.Ms.No.511 Finance (Pay cell) Department dated 01.08.1992 re-designating the post held by the petitioner as Electrician Grade-I and stepping up of his pay.

2. The grievance of the petitioner is that, he was appointed as Electrician Grade II on 07.11.1990, in the scale of pay of Rs.825-15-900-20-1200, and his service was regularised with effect from 01.03.1991 and his probation was declared on 28.02.1993. Earlier, the petitioner approached the Tamil Nadu Administrative Tribunal in O.A.No.3729 of 1994 for regularisation of service, which was transferred to this Court and re-numbered as W.P.No.21527 of 2006.

3. This Court, by an order dated 16.11.2007, allowed the writ petition directing the respondents to regularise the service of the petitioner with all monetary benefits with effect from 01.03.1991. That order was challenged in Writ Appeal No.672 of 2008 and the same was dismissed on 02.07.2008. According to the petitioner, on the date of appointment, some of the equivalent cadre posts basis Pay Scale was fixed at Rs.610-1075, and the Selection Grade Scale of the said posts was fixed at Rs.705-1230. The said scale of pay is applicable to those who have passed SSLC examination apart from holding National Trade Certificate in the relevant Trades. Thereafter, considering the request of the aggrieved persons, a One Man Committee was constituted pursuant to G.O.Ms.No.1267, dated 08.12.1985 for prescribing higher scale of pay for those posts, taking into consideration the qualification of SSLC together with ITI certificate, by uniform nature of qualification, with revised pay scales, with equal treatment to all categories of Trade Posts. But the respondents, without considering G.O.Ms.No.762, dated 20.08.1986, fixed the pay and treating the petitioner as he belongs to SSLC examination failed category. Thereafter, another Government Order has been passed in G.O.Ms.No.511, dated 01.08.1992, based on the recommendation of the Official Committee for Uniform Revision of Pay Scales and requiring only ITI certificate without insisting for SSLC qualification. Electrician Grade II post erroneously empanelled along with certain other Grade II posts and fixed the pay scale, which is eligible for SSLC failed candidates as against the pay scale of Rs.610=1075, eligible for SSLC passed candidates as per revision of qualification and fixation of pay

scale pursuant to G.O.Ms.No.762 dated 20.08.1986. Thereafter, as per G.O.Ms.No.511 and 548 dated 01.08.1992, the scale of pay for the Electrician Grade II was revised to Rs.950-1500 from the original scale of Rs.555-970 instead of revising of Rs.1100-1660 treating the petitioner as SSLC failed candidate. Hence, the present writ petition has been filed.

4. The respondents have filed an elaborate counter affidavit stating that the petitioner was appointed as an Electrician Grade II, his service was regularized on 01.03.1991, and his probation was declared on 28.02.1993. Pursuant to the order passed by the Tamil Nadu Administrative Tribunal, Government issued order in G.O.Ms.No.511 dated 01.08.1986 stating that the Grade II category which requiring ITI certificate irrespective of academic qualification be allowed with the scale of pay of Rs.950 - 1500 and all such Grade I posts coming under other category will be allowed the scale of pay of Rs.1100-1660. Now, the petitioner seeking re-designation as Electrician Grade I and to fix his pay as higher scale of pay of Rs.1100-1660 citing various posts. The petitioner has been fixed with the scale of pay applicable to the post held by him as per the orders issued by Government from time to time. The request of the petitioner to re-designate and refix his pay is not acceptable as per the rules in force. The scale of pay of Rs.825-15-900-20-1200 is the approved pay scale entitled to Electrician Grade II, as per V pay Commission Recommendations. The petitioner's contention that he has been erroneously empaneled along with the other Grade II posts eligible for the pay scale of Rs.555-970 as against the scale of pay of Rs.610-1075, is not correct. Now as per the order passed by the Tamil Nadu Administrative Tribunal, the Government prescribed the uniform pay scale for different trade posts requiring ITI certificate in different trades without any distinction being made with reference to the basic academic qualification. As per G.O.Ms.No.511 dated 01.08.1982, all the Grade II trade posts be allowed the scale of pay of Rs.950-1500. As the petitioner has been appointed as Grade II post, the petitioner was drawing the scale of pay of Rs.825-1200, for which he is entitled for and after the revision of pay, he is entitled to the scale of Rs.950-1500.

5. Heard both sides and perused the materials available on records carefully.

6. The prayer of the petitioner is for stepping up the scale of pay at Rs.1100-1660 instead of Rs.950-1500 as per G.O.M.S.No.548, dated 01.08.1992. Admittedly, the petitioner was appointed as Electrician Grade II and as per G.O.Ms.No.548/511, the petitioner is only entitled for the scale of pay at Rs.825-1200 and revised salary pay scale of Rs.950-1500. According to the respondents, the scale of pay of Rs.825-15-900-20-1200 is

the approved pay scale entitled to Electrician Grade II as per V pay Commission Recommendations and the same is being paid to the petitioner and the counsel for the respondents also produced the copy of the Service Register entry, which clearly shows that the petitioner has been paid at Rs.950-1500. The learned counsel for the petitioner is also not in a position to dispute the same.

7. The second part of the prayer is to implement G.O.Ms.No.511 dated 01.08.1992 and upgrade petitioner's post as Electrician Grade I in stepping up the salary from 1100-1660 to Rs.4500-7000. According to the respondents, G.O.Ms.No.511, is not applicable to the petitioner. Even as per G.O.Ms.No.511, the petitioner, who was working as Electrician Grade II, is entitled to the scale of pay of Rs.950-1500 and the scale of pay of Rs.1100-1660 is only applicable to Grade I post and the petitioner's post cannot be re-designated as Grade I and the salary cannot be revised on par with the post of Electrician Grade I. I have also gone through the G.O.Ms.No.511, dated 01.08.1982 reads as follows :-

"3. The Government have accepted the above recommendations of the Official Committee, Accordingly, the Government direct that all Grade-II trade posts such as Wireman Plumber, Carpenter, etc., hither to classified under Group II in the Government Order first read above, requiring I.T.I. certificate irrespective of academic qualification be allowed the scale of pay of Rs.950-1500 and all such Grade-I posts coming under this category be allowed the scale of pay of Rs.1100-1660. "

Even as per G.O.Ms.No.511, the petitioner, who was working as Electrician Grade - II, is only entitled for the scale of pay of Rs.950 -1500, and the Grade I post is a promotional post, hence, the second part of the prayer sought by the petitioner cannot be granted as the petitioner is being paid the scale of pay available to the post of Grade II as per G.O.Ms.No.548 as well as G.O.Ms.No.511 . Considering the above circumstances, I find no merit in the writ petition .

8. Accordingly the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

mrp

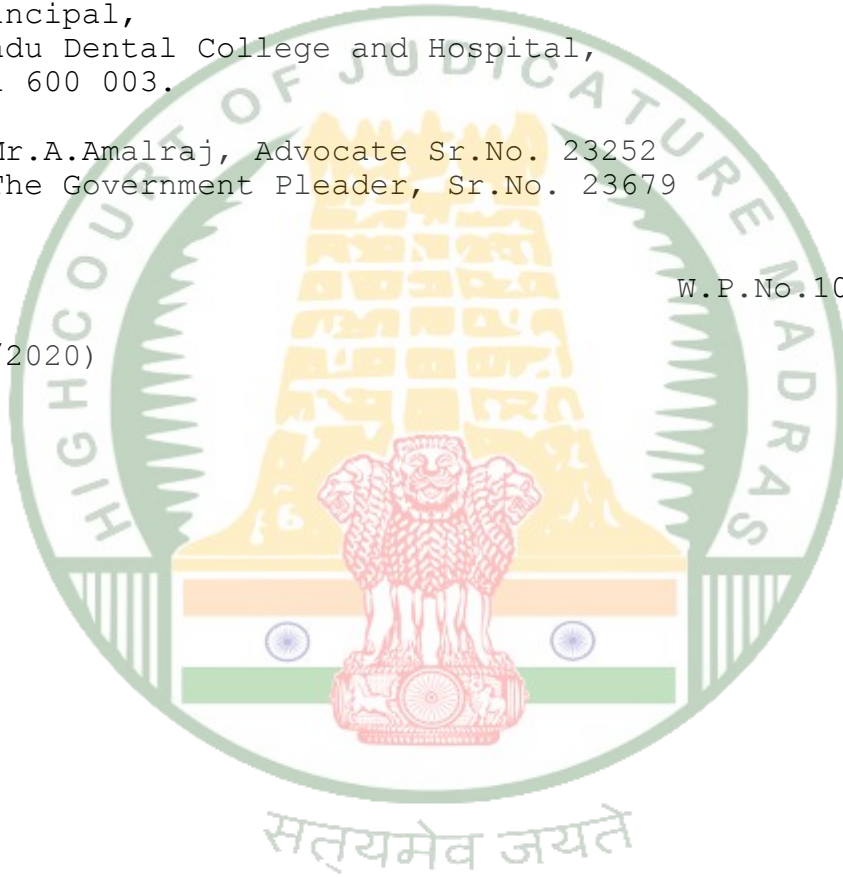
To

1. The Secretary to Government,
The Government of Tamilnadu,
Health and Family Welfare Department,
Fort St. George, Chennai 600 009.
2. The Director of Medical Education,
Kilpauk, Chennai 600 010.
3. The Principal,
Tamilnadu Dental College and Hospital,
Chennai 600 003.

+1 cc to Mr.A.Amalraj, Advocate Sr.No. 23252
+1 cc to The Government Pleader, Sr.No. 23679

W.P.No.10283 of 2013

PVS (CO)
RMP (07/08/2020)



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