IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.A.No.337 of 2020

D.Perumalram ... Appellant

-vs-

1.The Secretary to Government,
Planning and Development Department,
Fort St.George,
Chennai - 9.

2.The Principle Secretary and Commissioner,
Department of Economics and statistics,
Teynampet,
Chennai - 6. ... Respondents

Appeal filed under Clause 15 of the Letters Patent Act against the order dated 17.10.2019 passed in W.P.No.19585 of 2018.

Prayer in WP No.19585/2018 : Writ Petition filed under article 226 of the constitution of India, praying for the issuance of writ of mandamus, directing the 1st respondent to pay the arrears of salary for the period from 29.08.1981-30.06.2007 in pursuance of promotion order issued by the2nd respondent dated 28.08.2017.

For Appellant : Mr.R.Dhinesh Kumar

For Respondents : Mr.V.Jayaprakash Narayanan
State Government Pleader

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

This appeal is directed against a judgment of the learned Single Judge, refusing to exercise discretion in the matter of a claim of promotion coupled with pecuniary benefits from the date of initial appointment, in terms of the regularization order.

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2. The appellant had previously approached this Court by filing W.P.No.43052 of 2016 that was disposed of on 09.12.2016, where, the petitioner had claimed benefits to that effect on the ground that similarly placed persons have been extended the benefit of notional promotion as well as consequential monetary benefits. This is clearly recorded in paragraph No.3 of the order of the High Court dated 09.12.2016. The High Court directed the Authority to consider the same and dispose of the petitioner's claim, in accordance with law.

3. Consequently, on 28.08.2017, an order has been passed extending the benefit of regularization with effect from the date of initial appointment, but at the same time, monetary benefits from the date of initial appointment have not been extended.

4. It is for this reason that the appellant approached this Court by filing a writ petition giving rise to the present writ appeal.

5. The learned Single Judge, after having narrated the facts in paragraph No.6 has simply drawn conclusions without giving any reason as to why the said claim shall not be entertainable and could not be considered by the Authority. In the absence of any reason having been recorded, there is no option but to set aside the impugned judgment dated 17.10.2019.

6. However, on the merits of the matter, the claim is based on a similar treatment having been given to one Flarance Joyce Vimalavathy, whose regularization order dated 15.04.1988 has been placed on record and it is urged that she was also permitted to draw arrears on pay and increment consequent to her regularization.

7. We are not rendering any opinion on the extent of benefit granted to the aforesaid employee and as to whether the claim of the appellant is exactly similar or otherwise also, the appellant is entitled for any such monetary benefits or not. This will require an investigation to the relevant Government Orders, Circulars, if any, governing the grant of arrears of pay, in the event of regularization with effect from the date of initial appointment. The same therefore, has to be examined by the concerned Authority and an order deserves to be passed accordingly. We, therefore, direct the second respondent to consider the grievance of the appellant in the light of what has been observed above and pass an appropriate order with regard to his claim, as expeditiously as possible preferably within two weeks from the date of production of a certified copy of the order.

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8. The Writ Appeal is allowed with the direction aforesaid. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Planning and Development Department,
Fort St.George,
Chennai - 9.

2.The Principle Secretary and Commissioner,
Department of Economics and statistics,
Teynampet,
Chennai - 6.

+1cc to Mr.R.Dhinesh Kumar, Advocate SR.No.19706

W.A.No.337 of 2020

NRL(CO)
GMY(24/03/2020)

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