

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 08.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No. 12316 of 2013

G.Jayaprakasam

.. Petitioner

- Vs -

1. The Government of Tamilnadu  
Represented by Principal Secretary to Government  
Health and Family Welfare Department  
Secretariat,  
Chennai 600 009.

2.The Director of Public Health and Preventive  
Medicine  
Chennai 600 006.

3.The Chief Water Analyst  
King Institute Campus,  
Guindy,  
Chennai 600 032.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified Mandamus, calling for the records of the second respondent relating to the order in R.No.66468/E2/S2/12 dated 20.07.2012 and quash the same in so far as it relates to fixation of pay under Rule 22-B and to direct the 1<sup>st</sup> and 2<sup>nd</sup> respondents to refix the pay of the petitioner under F.R.22 B in the promoted post of Junior Water Analyst as on 15.03.1993 AN and on the basis refix his pay as per recommendation of successive pay panels and disburse consequential monetary benefits all within a time frame.

For Petitioner : Mr. J.Muthukumaran

For Respondents: Mr.A.N.Thambidurai, Spl.G.P

## ORDER

The petitioner, who was working as Special Grade Junior Water Analyst in the office of the Chief Water Analyst, Guindy, Chennai has come forward with this writ petition Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified Mandamus, to call for the records of the second respondent relating to the order in R.No.66468/E2/S2/12 dated 20.07.2012 and quash the same in so far as it relates to fixation of pay under Rule 22-B and to direct the 1<sup>st</sup> and 2<sup>nd</sup> respondents to re-fix the pay of the petitioner under F.R.22 B in the promoted post of Junior Water Analyst as on 15.03.1993 AN and on the basis re-fix his pay as per recommendation of successive pay panels and disburse consequential monetary benefits all within a time frame.

2.The case of the petitioner is that the petitioner joined service on 02.08.1976 as Lab Technician Grade-I, and was later on promoted as Junior Water Analyst with effect from 15.03.1993 AN and has put in unblemished service for more than 35 years and due to retire on 30.04.2013, after attaining the age of superannuation. The petitioner made a representation to the authorities to re-fix his scale of pay under FR 22 (B) in the promoted post of Junior Water Analyst as on 15.03.1993 pursuant to recommendations of successive pay commission and disburse the monetary benefits. With the above said prayer the petitioner filed a writ petition in WP.No.12523/2012 and the said writ petition was disposed of on 05.06.2012 by this Court with a direction to dispose the petitioner's representation dated 14.02.2012 and pass orders on merits and in accordance with law within a period of four weeks. However petitioner's representation was rejected and challenging the same the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that though the petitioner entered service in the year 1976 and subsequently the petitioner was temporarily promoted to the post of Junior Water Analyst on 5.03.1993 and he joined the promoted post on 15.03.1993. Accordingly his pay in the promoted post was fixed at Rs.1700/- with effect from 15.03.1993 in the scale of pay of Rs.1600-2660 and subsequently on 24.03.1994 the said pay fixation in the promoted post was modified and his pay in the lower grade was fixed at Rs.1700 in the scale of pay of Rs.1400-2600 with effect from 16.03.1993. However, according to the petitioner, he is entitled to receive the pay fixation in the cadre of Junior water analyst as per F.R. 22 (B). The representation submitted was rejected by the respondents. As the said re-fixation is contrary to the rules and without considering the rule provision, the claim of the petitioner having been rejected, challenging the same the present petition has been filed.

4. The learned counsel for the petitioner submitted that the petitioner entered the service in the year 1976 as Lab Technician Grade-I, and subsequently temporarily promoted as Junior Water Analyst with effect from 15.03.1993. Initially the authority correctly fixed the pay in the cadre of Junior Water Analyst, however on 24.03.1994 that earlier pay fixation was modified. The petitioner made a representation to the authority to refix the pay in consonance with FR 22 (B). As no order was passed on the said representation, the petitioner approached this Court and this Court issued a direction to the respondents to consider the representation and pass orders in accordance with law. Though the respondent has passed the order rejecting the claim of the petitioner, but the said order is wholly unsustainable as it is devoid of any reason and has not taken into consideration the materials adverted to by the petitioner in proper perspective. Accordingly he prays for allowing the petition.

5. On the above contentions, this Court heard the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

6. A perusal of the entire records it reveals that fixation of pay to be made under FR 22 (B), which is not in dispute. It is further evident that though the pay was initially fixed on the higher side, however, after finding that the petitioner has not produced the fully qualified certificate, his pay was revised and refixed at the lower scale. It is not the case of the petitioner that on the date when the initial pay fixation was made, the fully qualified certificate was submitted by the petitioner. It is an admitted fact that on the crucial date the petitioner did not produce the fully qualified certificate from the competent authority and the same was produced only in the year 1996. Production of fully qualified certificate is sine qua non to entitlement for refixation of pay of the petitioner in the higher scale as per FR 22 (B). The petitioner, having not produced the fully qualified certificate on the crucial date when his pay was fixed, the respondents have rightly, at a later point of time, refixed the petitioner's pay in the lower scale as per FR 22 (B). Further, the petitioner has not challenged the impugned order of refixation of his pay to a lower scale, but has only sought for consideration of his representation, which was earlier acceded to by this Court based on which the representation considered and rejected. Without challenging the refixation made by the respondents, it is not open to the petitioner to challenge the rejection of his representation, more so, when the representation was given only for refixation as per FR 22 (B). In the above backdrop of the factual position, the relief as sought for by the petitioner cannot be granted and, therefore, this writ petition is liable

to be dismissed.

For the reasons aforesaid, this writ petition, being devoid of merits, is accordingly dismissed. There shall be no order as to costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrs/GLN

To

1. The Principal Secretary to Government of Tamil Nadu  
Health and Family Welfare Department  
Secretariat,  
Chennai 600 009.
2. The Director of Public Health and Preventive  
Medicine  
Chennai 600 006.
3. The Chief Water Analyst  
King Institute Campus,  
Guindy,  
Chennai 600 032.

W.P. NO.12316 OF 2013

GJ(CO)  
CB(24/09/2020)

सत्यमेव जयते  
WEB COPY