

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2020

CORAM

THE HON'BLE Mr. JUSTICE M.GOVINDARAJ

W.P.No.22616 of 2011

1.S.P.Mani

2.R.Mani

3.D.Sivam

4.M.Kuppurasu

5.P.Rajkumar

6.K.Krishnakumar

7.D.Joseph

8.P.Thangaraj

9.L.Subramanian

10.R.Mathivanan

11.K.Periyasamy

12.S.Jothimani

13.K.Mathiazhagan

14.R.Ulaganathan

15.P.Soundrarajan

16.R.Sundaresan

17.R.Gnanasekaran

18.S.Boopalan

19.R.Angappan

20.R.Kalaiivanan

21.K.Mayakkannan

22.S.Kamatchi
23.R.Vajravelu
24.V.Loganathan
25.K.Samapth
26.S.S.Abdul Kadher
27.N.Kamalakkannan
28.K.Logan
29.K.Anandaraji
30.C.Ganapathy
31.G.Sugumar
32.V.Sekar
33.S.Sridharan
34.N.Asokan
35.N.Peer Mohammed
36.R.Rajendran
37.C.Ganesan
38.R.Shanmugavel
39.K.Sasikumar
40.C.Johnson
41.Y.John Wilson
42.M.Murugan
43.L.Paranjothi
44.C.Surendran
45.V.Nandakumar

... Petitioners

Vs.

- 1.The Government of TamilNadu,
rep by the Secretary to the Government,
Transport Department, Fort St.George,
Chennai - 600 009.
- 2.The Government of TamilNadu,
rep by the Secretary to the Government,
Finance (Pay Cell) Department,
Fort St.George, Chennai - 600 009.
- 3.The Director,
Tamil Nadu Motor Vehciles Maintenance Department,
Ashok Nagar, Chennai - 600 083. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of writ of mandamus directing the respondents to grant 5% Personal Pay to the petitioners with effect from 01.08.1992 in the light of the orders passed by the Devision Bench of this Hon'ble in W.P.No.28505 of 2006 dated 26.06.2008 and W.P.No.7655 of 2006 dated 17.02.2010 and grant all consequential benefits to the petitioners including revision of pay and payment of arrears.

For Petitioners	: Mr.P.Mohanraj
For Respondents	: Ms.R.Janaki
	Additional Government Pleader

O R D E R

The petitioners are working as Bench Fitters Grade II, Scrubber, Tinker, Hammerman, Electrician, Carpenter, Blacksmith, Liner-II, Tyreman, Pump operator, Painter, Reborer, Welder, Tool Keeper in the Tamil Nadu Motor Vehicles Maintenance Department. The Government of Tamil Nadu issued an order in G.O.Ms.No.664, Finance (PC) Department, dated 24.08.1992 directing grant of Personal Pay 5% of the basic pay under the categories of staff mentioned above with effect from 01.08.1992.

2. The petitioners have moved over from the pre-revised pay scale of Rs.555-970/- and Rs.950-1500/-. Since the pre-revised scale of Rs.555-970/- does not fall under the four categories mentioned in the Government Order, the benefit of Personal Pay 5% was denied to the petitioners. Aggrieved over the same, the petitioners are before this Court.

3. The similarly placed persons have approached this Court on an previous occasion in W.P.Nos.28505 and 28611 of 2006. This

Court by an order dated 26.06.2008 after following the judgment of Division Bench in V.Rathinakiri and others Vs. State of TamilNadu in W.P.Nos.20156 and 13143 of 2000 dated 10.03.2006 has granted the relief. It is seen that the said order passed by this Court in W.P.Nos.28505 and 28611 of 2006 dated 26.06.2008 was implemented in Letter No.45250/CMPC/2011-1 dated 02.07.2012. When the benefit of 5% Personal Pay was granted to the similarly placed persons there is no reason to deny the same to the petitioners also. For the benefit of better understanding, the relevant paragraph in the order passed by the Hon'ble Division Bench in W.P.Nos.20156 and 13143 of 2000 dated 10.03.2006 is extracted as under;

"15. The reason given in the order of this Court hile setting aside the earlier proceedings has not been considered by the order which is impugned in the present writ petitions, in its proper perspective. It is clear that the petitioners have been ignored and their claims have been rejected without application of mind to relevant factors enumerated above. The reasonings given in the impugned proceedings are not tenable for the aforesaid reasons also. In any event, the various averments now made in the counter affidavit which are made to improve the case of the Department, which are not found in the impugned order, cannot accepted. The legality or otherwise of an order passed by a statutory authority must be judged on the face thereof as the reasons contained therein cannot be supplemented by an affidavit. (See Mohinder Singh Gill Vs. Chief Election Commissioner - 1978 (1) S.C.C 405 = AIR 1978 SC 851). We find that the various contentions raised in the counter affidavit are not germane to the reasons given in the impugned order.

16. It is therefore clear that the denial of 5% personal pay of the basic pay to the petitioners, is arbitrary and unreasonable. The reason given by the first respondent in rejecting the petitioners' claim is illogical besides being arbitrary. There is no rationale of basis for rejecting the claim of the petitioners. In this case, equals are being treated unequally. The petitioners are rightfully entitled to the benefit of 5% personal pay of the basic pay. We accept the contention of the petitioners as observed by this Court in its order dated 15.04.1999 passed in W.P.No.928 of 1995 that when the benefit is granted to the Assistants - Selection Grade of the same pay scale, there is no justification for denying the benefit to the petitioners who were also on the same scale of pay during the relevant time.

17. In view of the above, the writ petitions are allowed prayed for. No costs. W.M.P. is closed."

4. In the instant case also, I don't find any reason for not granting 5% Personal Pay to the present petitioners who have moved over through Rs.950-1500/- scale. The four revised scale of pay in G.O.Ms.664 is only illustrative and it is not exhaustive. Thus, who are employed in the Government service and moved over to Rs.950/- -1500/- also will be counted for grant of 5% Personal Pay. Therefore, I am inclined to give a direction to the respondents to extend the benefits to the petitioners who are similarly placed to the petitioners in W.P.No. 28505 of 2006. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

5. With the above observation, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

bri

To

1.The Government of TamilNadu,
rep by the Secretary to the Government,
Transport Department, Fort St.George,
Chennai - 600 009.

2.The Government of TamilNadu,
rep by the Secretary to the Government,
Finance (Pay Cell) Department,
Fort St.George, Chennai - 600 009.

3.The Director,
Tamil Nadu Motor Vehciles Maintenance Department,
Ashok Nagar, Chennai - 600 083.

+1 cc to M/s.P.Rajendran, Advocate Sr.No. 2874

+1 cc to The Government Pleader, Sr.No. 3476

W.P.No.22616 of 2011

VSNII(CO)

RMP(06/10/2020)