

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2020

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THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.27049 OF 2010

AND

M.P.NO.1 OF 2010

TamilNadu Civil Supplies Corporation,
Quality Control Staff Association,
Regd No.1631/Chennai,
Vellala Street, Purasaiwakkam,
Chennai 84.
Rep.by its General Secretary

... Petitioner

Vs.

The Tamil Nadu Civil Supplies Corporation,
Rep.by its Managing Director,
Chennai - 10.

... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the records relating to the Circular No.93/2010 in R.C.No.AE 10/53100/2009 dated 20.10.2010 of the respondent, quash the same.

For Petitioner : Mr.S.Venkataraman

For Respondents : Mr.C.Munusamy
Special Government Pleader

सत्यमेव जयते
O R D E R

The petitioner is the Tamil Nadu Civil Supplies Corporation Quality control staff association. The Government by circular dated 20.10.2010 directed to revise the scale of pay of Deputy Manager (Quality Control) and to recover the excess amount paid to them.

2. According to the petitioner, the Quality Inspector has to be treated on par with the Superintendent with basic pay of Rs.5,300/-. The Government by G.O.Ms.No.538 (CMPC) dated 27.11.2000 directed to revise the scale of pay of Superintendents in the TamilNadu Ministerial Service at Rs.1700-

3005 with effect from 01.06.1988 and corresponding fixation of new scale of pay at Rs.5,700-9200 with effect from 01.01.1996. However, the scale of pay of Superintendent was not extended to the Quality Control Cadre. The Corporation, in its Board Meeting held on 29.03.2001 had complied with the pay scale in respect of Superintendents alone, with effect from 01.01.1996. Aggrieved over the same, the petitioner association made a representation dated 09.10.1999 and the same was rejected on 21.11.2001.

3. During the pendency of the writ appeal before this Court, the Board of Directors have taken a decision on 31.12.2008 to recommend the scale of pay of the Quality Inspector on par with the Superintendents at Rs.5500-175-9000 and notionally to fix seniority and to give monetary benefits prospectively. Such resolution was recommended to the Government for approval. It is also submitted that though there was disparity between the scale of pay of Superintendents and Quality Inspectors, the respective promotional posts viz., Assistant Manager and Deputy Manager of Quality control carry the same scale of pay on par with the corresponding cadre of Deputy Manager in the general side. Aggrieved over the same, the petitioner is before this Court.

4. Controverting the contentions raised by the petitioner, the learned counsel for the respondent relying on the counter filed by them would contend that pursuant negotiations the petitioner association given consent to fix pay of Quality Control Cadre on par with Superintendents of general cadre. By GO(D).No.361, Co-operation, Food and Consumer protection Department dated 02.11.2008 scale of pay of Rs.5700 - 175 - 9200 was directed to be implemented to the cadre of Superintendents in Civil Supplies Corporation, which is not applicable to public sector corporation/Boards. After revisions, the pay scale of Superintendents of State Government was fixed slightly above the Superintendents of Corporations/Boards. However, presently the common scale of Rs.9300-34800/- is given with a difference of Grade pay of Rs.4400 and Rs.4800 respectively. Like wise common scale of Rs.9300-34800 was fixed Deputy Manager with grade pay of Rs.4900 and Rs.4600 as per sixth pay commission to Government and Corporations respectively. In certain regions the Quality Control Cadre were paid in excess with a grade pay of Rs.4900/-, hence it was directed to be recovered. Both the scales of pay are different and the contention that the posts are interchangeable is literally incorrect. Therefore, grant of pay on par with these cadres is impossible.

5. Heard the submissions on both sides.

6. On perusal of the records, it is seen that there are two different cadres one on general side and other on

technical side having two different vertical hierarchy. The avenue of promotion is entirely different. The posts of Superintendents and Quality Inspectors have different duties and responsibilities and therefore cannot be compared for the purpose of fixation of pay. It is also relevant to state that Government for the reasons known to them taken a policy decision to fix common pay scale with difference in grade pay. When the Government in its wisdom fix pay scales as per the recommendation of an expert body viz., pay commission, Courts should be slow in interfering with the policy decisions of the Government. It cannot be interfered unless it is shown that nature of duties and responsibilities, education qualification, experience and expertise are almost same and the fixation is arbitrary and irrational. In the instant case, though the cadres are different government has fixed a common pay with slight difference grade pay. The decision as such is not arbitrary or unreasonable.

7. In such circumstances, the claim of the petitioner cannot be granted. The impugned order passed in Circular No.93/2010 in R.C.No.AE 10/53100/2009 dated 20.10.2010 is sustainable except for recovery of excess amount paid to wrong fixation. The pay fixation was wrongly implemented, for which the employees cannot be faulted. Hence, the respondents are directed not to recover any monetary benefits already paid to the member of the petitioner's association.

8. Accordingly, the writ petition is disposed of with the above observation. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

bri

To

The Managing Director,
The Tamil Nadu Civil Supplies Corporation,
Chennai - 10.

+1cc to Mr.C.Munusamy, Advocate, S.R.No.6813

W.P.No.27049 of 2010
and M.P.No.1 of 2010

LN(CO)
CS/21/07/2020