

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :21.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.20352 of 2013

A.Rajagopal

.. Petitioner

- Vs -

- 1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Health Department, Fort St. George,
Chennai 600 009.
 - 2.The Director of Medical and Rural Health Services
Teynampet, DMS Complex, Chennai 600 006.
 - 3.The Joint Director (Administration),
Directorate of Medical Education,
Kilpauk, Chennai 600 010.
 - 4.The Joint Director of Health Services,
Thiruvannamalai & District.
 - 5.The Dean,
Government Thiruvannamalai medical College and Hospital,
Thiruvannamalai District.
- .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, directing the respondents especially the 3rd respondent to send proposal before the 1st respondent apart from directing the 1st respondent to issue G.O. upgrading the petitioner as Electrician Grade I besides revising his scale of pay eligible to Electrical Grade I with effect from 8.2.1989 the date of his appointment in the light of Circular Letter No. WCE.1/087659/98 dt 10.6.1999 issued and implemented by the TWAD Board and G.O.Ms. No.123 Municipal Administration and Water Distribution Department dt 28.2.2011 issued adopting G.O.Ms. No.762 dt 20.8.1986 besides stepping up of his pay scale according to V and VI Pay Commission recommendations apart from disbursing to him the difference in the pay scale arrears from 08.02.1989 as

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recommended by the second respondent pursuant to his proceedings made in L.Dis.No.18242/E5/3/96 dated 17.12.1996 and revised and fixed by the Joint Director of Health Services, Thiruvannamalai pursuant to his proceedings made in K.Dis.No.13411/E2/96 dated 08.01.1997 (the erstwhile authorities) but still remained only as a paper order and also in the light of identical order passed in W.P.No.18963 of 1986 as confirmed in Writ Appeal No.260/2002 dated 20.11.2003 with all monetary and service benefits including promotion, promoting the petitioner in the appropriate cadre by invoking the Adhoc rules on par with others taking into account the Petitioner's representation dated 03.01.2012 and 29.05.2013 and the recent one dated 10.06.2013 (acknowledged by the third respondent).

For Petitioner : Mr.A.Amalraj

For Respondents: Mr.S.Thangave, Spl.G.P.,

ORDER

The writ petition was filed by the petitioner, to direct the respondents especially the 3rd respondent to send proposal before the 1st respondent apart from directing the 1st respondent to issue G.O. upgrading the petitioner as Electrician Grade I besides revising his scale of pay eligible to Electrical Grade I with effect from 8.2.1989 the date of his appointment in the light of Circular Letter No. WCE.1/087659/98 dt 10.6.1999 issued and implemented by the TWAD Board and G.O.Ms. No.123 Municipal Administration and Water Distribution Department dt 28.2.2011 issued adopting G.O.Ms. No.762 dt 20.8.1986 besides stepping up of his pay scale according to V and VI Pay Commission recommendations apart from disbursing to him the difference in the pay scale arrears from 08.02.1989 as recommended by the second respondent pursuant to his proceedings made in L.Dis.No.18242/E5/3/96 dated 17.12.1996 and revised and fixed by the Joint Director of Health Services, Thiruvannamalai pursuant to his proceedings made in K.Dis.No.13411/E2/96 dated 08.01.1997 (the erstwhile authorities) but still remained only as a paper order and also in the light of identical order passed in W.P.No.18963 of 1986 as confirmed in Writ Appeal No.260/2002 dated 20.11.2003 with all monetary and service benefits including promotion, promoting the petitioner in the appropriate cadre by invoking the Adhoc rules on par with others taking into account the Petitioner's representation dated 03.01.2012 and 29.05.2013 and the recent one dated 10.06.2013 (acknowledged by the third respondent).

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2.The case of the petitioner is that he entered the service of the respondent as as Electrician Grade II on 08.02.1989 and the said appointment was made through Employment Exchange in the pay scale of Rs.555-970. Initially he was posted at Government Hospital (H.Q) Thiruvannamalai and now at Government Thiruvannamalai Medical College and Hospital, Thiruvannamalai. As per G.O.Ms.NO.762 dated 20.08.1986 there are equivalent posts viz., Sheet Metal Worker, Machinist (Grinder), Electro plater, mechanic (Instrument), electrician, Mechanic (Refrigeration and Air Condition), Tool and Dye Maker (Basic). The basic pay in the said equivalent cadre posts was fixed in the scale of Rs.610-1075. In order to implement the said G.O., the respondent namely Joint Director of Health/the fourth respondent, passed an order in favour of the petitioner on 08.01.1997. However that order was not implemented till date, which resulted in the filing of the present petition.

3.Learned counsel appearing for the petitioner submitted that though the prayer sought for two reliefs, however, it would suffice if a direction is issued to the respondent to implement G.O.Ms.NO.762 dated 20.08.1986 within a reasonable time as fixed by this Court.

4.Learned Special Government Pleader, appearing for the respondents, while reiterating the points raised in the counter affidavit contended that there is only one electrician Gr. II post sanctioned to the unit of the entire Tiruvannamalai District. Moreover no Grade-I Electrician Post is available in the District Unit. Hence the question of appointing the petitioner to Grade-I post could not be complied with retrospective effect from the date of his initial appointment on 08.02.1989, because as per the Service Rules, those who have completed 10 years of service in the Electrician Gr. II post can be promoted as Electrician Gr.I. For Direct recruitment as Electrician Gr.I a candidate should have acquired Diploma in that field. Hence the petitioner cannot be considered for appointment as Grade-I by up gradation with retrospective effect from his date of initial appointment on 08.02.1989. However the petitioner was awarded Selection Grade/Special Grade for the completion of 10/20 years of the service respectively and he has been paid correspondingly in the Time scale of pay applicable to Gr. I post. Moreover the petitioner is working under administrative control of the 5th respondent herein with effect from 01.04.2012. Accordingly he prays for dismissal of the petition.

5.This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials

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available on record.

6. Though very many contentions have been raised by the learned Special Government Pleader, however, in view of the limited relief sought for, this Court without going into the merits of the issue, directs the second respondent to implement G.O.Ms.NO.762 dated 20.08.1986, if otherwise the petitioner is entitled to legally and in accordance with law, within a period of three months from the date of receipt of copy of this order.

7. With the above direction, this writ petition is disposed off. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrs

To

- 1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Health Department, Fort St. George,
Chennai 600 009.
- 2.The Director of Medical and Rural Health Services
Teynampet, DMS Complex, Chennai 600 006.
- 3.The Joint Director (Administration),
Directorate of Medical Education,
Kilpauk, Chennai 600 010.
- 4.The Joint Director of Health Services,
Thiruvannamalai & District.
- 5.The Dean,
Government Thiruvannamalai medical College and Hospital,
Thiruvannamalai District.

+1cc to Mr.A.Amalraj, Advocate SR.30917
+1cc to the Government Pleader SR.30977

W.P. NO.20532/2013

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