

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.30259 OF 2012

Tamil Nadu Civil Supplies Corporation
Quality Control Staff Association
Regd. No.1631 / Chennai
Vellala Street, Purasaiwakkam,
Chennai - 600 084.
Rep. by its General Secretary ... Petitioner

Vs.

- 1.The Tamil Nadu Civil Supplies Corporation
Rep. by its Managing Director
42, Thambuswamy Road,
Chennai - 10.
- 2.The State of Tamil Nadu
Rep. by its Secretary to Government
Finance Department
Fort St. George, Chennai - 9.
- 3.The State of Tamil Nadu
Rep. by its Secretary to Government
Cooperation, Food and Consumer Protection Dept.
Fort St. George, Chennai - 9. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the G.O.(Ms) No.121, Coop Food and Consumer Protection (A1) Department, dated 24.09.2012 of the third respondent herein quash the same in so far as it has fixed the Grade pay of Quality Inspectors at Rs.4400/- instead of Rs.4800/- in the scale of pay of Rs.9300-34800 on par with the cadre of Superintendents prospectively and consequently direct the respondents to fix the grade pay of Quality Inspectors at Rs.4800/- in the scale of pay of Rs.9300 - 34800/- with retrospective effect from 01.01.1996 with all attendant benefits, without arrears of pay.

For Petitioner : Mr.S.Venkataraman

For Respondent-1: Mr.C.Munusamy
Special Government Pleader

For Respondent-2: Mr.P.Chinnadurai
Additional Government Pleader

For Respondent-3: Mr.R.Bala Ramesh
Special Government Pleader (Co-op)

O R D E R

The petitioner is an Association of Quality Control Staff. Pursuant to the orders passed by the Government in G.O.Ms.No.538, CMPC Department, dated 27.11.2000, the pay scale of Superintendent in Tamil Nadu Ministerial Service was fixed at Rs.1700-3500/- with effect from 01.06.1998 and the corresponding fixation of new scale of pay of Rs.5700-9200 with effect from 01.01.1996. Even though the Quality Control Inspectors are equal to the cadre of Superintendents, no revision of scale of pay was ordered in favour of the petitioner. Hence, the petitioner preferred a Writ Petition viz., W.P.No.11604 of 2002 for fixation of pay on par with the Superintendents. Even though it is accepted by the Corporation that the claim of the petitioner is bonafide, due to financial implications, they cannot grant pay parity in favour of the petitioners.

2. This Court, by its order dated 22.11.2006 allowed the writ petition in W.P.No.11604 of 2002 granting pay parity to the petitioner on par with the Superintendents. Against this order, the first respondent preferred Writ Appeal in W.A.No.938 of 2007. During pendency of the Writ Appeal, the respondents have taken a decision to revise the scale of pay of the petitioner on par with Superintendent at Rs.9300/- to 34,800/- with grade pay of Rs.4800/-. The fact remains that the scale of pay of Superintendent was fixed at Rs.4,800/- whereas the grade of pay of the petitioner was increased from Rs.4300/- to Rs.4400/- in the scale of pay of Rs.9300 - 34800/-. There is a difference of Rs.400/- in fixing the grade pay.

3. As per the directions of this Court, the Government has passed an order vide G.O.(Ms) No.121, Cooperation Food and Consumer Protection (A1) Department,

dated 24.09.2012. The Division Bench of this Court in W.A.No.938 of 2007, giving liberty to the petitioner to challenge the Government Order passed in G.O.(Ms)No.121, Cooperation, Food and Consumer Protection Department, dated 24.09.2012, closed the writ petition. Aggrieved over the same, the petitioner is before this Court.

4. The first respondent filed a detailed counter affidavit stating that the posts of Superintendent and Quality Control Inspectors are not interchangeable and that the Corporation is operating on the basis of "no profit and no loss" and the payments are made from the subsidy granted by the Government. Therefore, the pay parity sought for by the petitioner cannot be granted.

5. I have considered the submissions made on either side.

6. It is pertinent to note that the Chairman cum Managing Director, Tamil Nadu Civil Supplies Corporation has recommended pay revision to the Government vide Letter No.F2/94005/99 dated 09.10.1999, wherein the method of recruitment, qualification, duties and responsibilities were enumerated with the purpose of granting pay parity. The method of recruitment to the post of Superintendent is by promotion from the post of Assistant with four years of service and three years as Junior Assistant; for the post of Quality Inspector, the method of recruitment was by promotion from the post of Assistant Quality Inspector with three years of service. The educational qualification for the post of Superintendent is minimum general educational qualification viz., S.S.L.C., whereas for Quality Inspector, Degree in Agriculture or Degree in Science with Botany, Zoology or Chemistry as the main subject with atleast one of the other two as ancillary. With the above observation, the Chairman cum Managing Director has recommended revision of pay scale to the Quality Inspectors / Shift Engineers as on par with that of Superintendent.

7. From the above comparison given by the Chairman cum Managing Director, it is seen that the Quality Inspectors should possess Degree in Agriculture or Degree in Science. Whereas, Superintendent can be appointed with minimum general educational qualification. From the materials, it could be inferred that the Quality Inspectors can discharge the duties of Superintendent, whereas, Superintendent cannot discharge the duties of Quality Inspectors. In such circumstances, the claim of the

petitioner, to fix the pay on par with the Superintendent appears to be justified. However, no rationale was given in G.O.(Ms) No.121 for fixing the pay scale of the Quality Inspectors at Rs.4400/-. There is no discussion about the duties and responsibilities of these two posts which are compared. The respondents are expected to come to a reasonable conclusion on the basis of the duties and responsibilities discharged by both the cadres, whereas, in the Government Order, it is given as Grade Pay of Rs.4400 /- viz., by increasing a paltry sum of Rs.100/- from Rs.4300/- to Rs.4400/- and there is no reasoning for increasing the amount by Rs.100/- other than saying that the Corporation is operating on the basis of "no profit and no loss". Such reasons cannot be accepted.

8. Accordingly, the impugned order passed in G.O. (Ms) No.121, Cooperation Food and Consumer Protection (A1) Department, dated 24.09.2012 by the third respondent is set aside and a direction is given to the second respondent to consider the two cadres of Superintendent and Quality Inspectors under the first respondent and pass appropriate orders with regard to fixation of pay scale of Quality Inspectors on par with Superintendents, in the Grade Pay of Rs.4800/-. This exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

9. The Writ Petition is disposed of accordingly.
No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

TK
To

1.The Managing Director
Tamil Nadu Civil Supplies Corporation
42, Thambuswamy Road,
Chennai - 10.

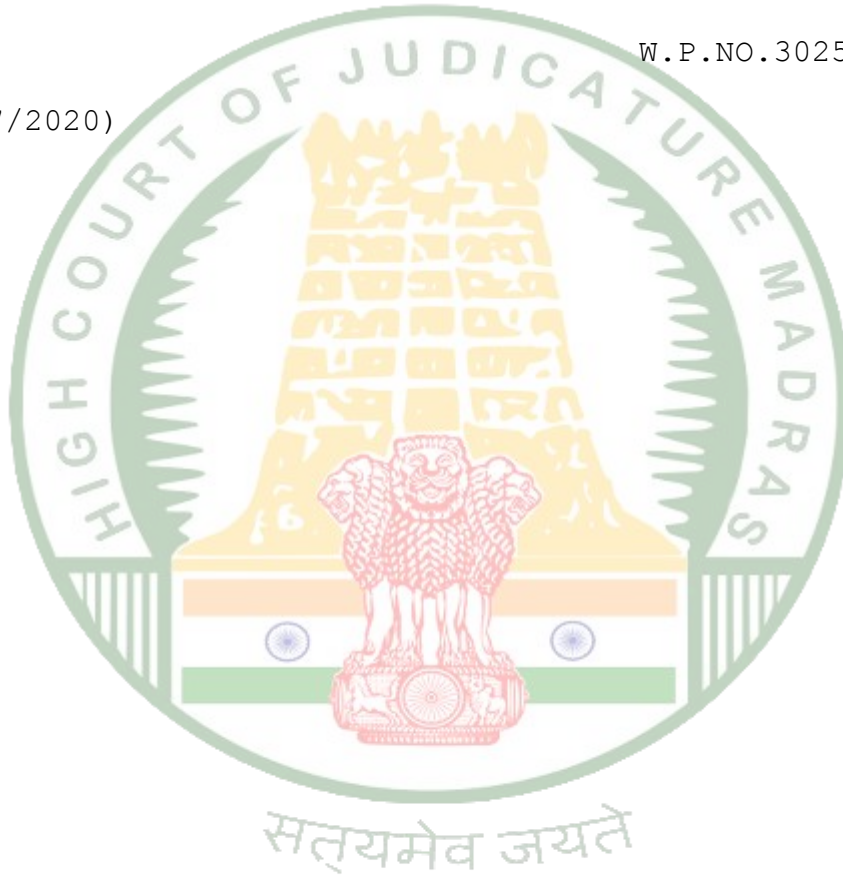
2.The Secretary to Government
Government of Tamil Nadu
Finance Department
Fort St. George,
Chennai - 9.

3.The Secretary to Government
Government of Tamil Nadu
Cooperation, Food and Consumer Protection Dept.
Fort St. George,
Chennai - 9.

+1cc to Mr.S.Venkataraman, Advocate, S.R.No.10983
+1cc to Mr.C.Munusamy, Advocate, S.R.No.11083
+1cc to the Government Pleader, S.R.No.11376

W.P.NO.30259 OF 2012

MR (CO)
CB (31/07/2020)



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