

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 20.02.2020

Delivered on: 26.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.Nos.34146, 34147, 34148, 33296, 33663, 33728, 33801, 34144, 34518, 34654, 35093, 35143, 35144, 35145, 35159, 35199, 35882, 35926, 33632, 33630, 33631, 36656, 37197, 37738, 35419, 35420 of 2015, 1995, 1977, 1996, 1997, 1978, 4660, 5836, 7031, 7032, 8193, 13079, 21896, 23036, 23037, 23440, 28994, 32779, 38599, 40920, 41056, 44180 of 2016, 15283, 13145, 13146 and 28205 of 2017
and connected Writ Miscellaneous Petitions

W.P.No.34144 of 2015:

Veterinary Officers Association,
 rep. by its General Secretary
 V.S.Raghavan Room No.7 Teachers Hostel
 Veterinary College Hostel Vepery Chennai-7.
 Petitioner

Vs

The State of Tamilnadu
 rep. by its Principal Secretary to the
 Government Finance Department (PC) Fort St.
 George Chennai-9.

.... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, to call for the records of the respondent in Letter No.53137/Pay Cell/2015-1 dated 25.9.2015 and quash the same in so far as the recruitment by promotion to the members of petitioner is concerned.

For Petitioner : Mr.N.Subramanian

For Respondents: Mr.Vijay Narayan, AG
assisted by Mr.J.Pothiraj,
Spl.G.P.
Mr.R.Gopinath,
Standing counsel for
Chennai Corpn.,

COMMON ORDER

All these Writ Petitions are pertaining to various categories of State Government Employees' seeking revision of pay scale in pursuance of VI Central Pay Commission. It appears that an Official Committee was constituted by the State Government to examine and make recommendations about the pay scales of the Government Employees in consonance with the recommendations made by the VI

Central Pay Commission. The Official Committee submitted its report on 27.05.2009 making certain recommendations like grant of Pay Band, Grade Pay, etc. The recommendations were accepted by the Government vide G.O.No.234 dated 01.06.2009. Thereafter, it appears that a One Man Commission was appointed in order to address concerns of pay anomalies which were noticed as a result of implementation of revised pay scales pursuant to G.O.No.234 dated 1.06.2009. One Man Commission which was headed by a Principal Secretary to the Government of Tamil Nadu, Industries Department, Mr. Rajiv Ranjan submitted his report on 31.03.2010 which was also accepted by the Government by issuing various Government Orders dated 26.08.2010, etc.

2. While matters stood thus, subsequently, it appears that the State Government issued another Government Order in G.O.No.71 dated 26.02.2011, scaling down certain benefits which were earlier granted in pursuance of G.O. dated 26.08.2010. Since the scaling down was done without issuing any notice or providing opportunity to the employees

concerned, in order to redress the grievances of the affected employees, the Government constituted Pay Grievance Redressal Cell (in short, 'PGRC'), headed by one Special Secretary to Government, Finance Department. The PGRC invited representations and objections and in the meanwhile, several aggrieved employees approached this Court by filing various Writ Petitions, challenging the scaling down the pay scales. During the pendency of the Writ Petitions, the said PGRC was reconstituted and after receiving various representations and objections, submitted its recommendations to the State Government. The recommendations of the PGRC were accepted by the Government and a G.O. was issued in G.O.No.242 dated 22.07.2013. Thereafter, number of Writ Petitions were filed challenging G.O.No.242 dated 22.07.2013 and those Writ Petitions as well as pending Writ Appeals were taken up together and disposed of by the Division of this Court vide its order dated 27.2.2014. The Division Bench of this Court issued the following directions as

found in paragraphs 50 and 51:

“50. As we found illegality in not following the principles of natural justice, before reducing the scales of pay, it is necessary that the matter is to be considered afresh by the Government after giving opportunity to all concerned especially, for reducing the scale of pay/grade pay. It is not in dispute that if really, there is any pay anomaly, the government is entitled to remove the same by following the due procedures. As rightly contended by the learned Senior Counsels and other learned counsels for the petitioners, the One-Man Committee and the PGRC appointed by the Government, all its members are Government Officers and they have already decided to reduce the pay scale of 52 categories of 20 departments, including pensioners and family pensioners in those departments, it may not be appropriate again to permit the Government to reconsider the issue on the recommendations of the Government officials alone. At this juncture it is relevant to note that the Central Government appointed retired Judge of the Hon’ble Supreme Court to head the V Central Pay Commission. Similarly, a retired Judge of Hon’ble Supreme Court was appointed as the Chairman of VI Central Pay Commission. The Hon’ble Supreme Court appointed a retired Judge of this Court to consider the pay anomaly among the Judicial Officers/Judicial

Pensioners at All India level. It is also not disputed that while extending the Pay Commission benefits, the technicalities as well as the legal issues regarding the claim of Equal Pay for Equal Work, qualifications, nature of duties etc. are also to be analysed and considered. Hence, we are of the view that it is just and appropriate to appoint a retired Judge to head the Pay Grievance Redressal Committee.

51. In such circumstances, the writ appeals and writ petitions are disposed of with the following directions:

(i) The Government shall constitute a Pay Grievance Redressal Committee under the Chairmanship of Hon'ble Mr. Justice A.S. Venkatachalmoorthy, formerly Judge of this Court, who was elevated and retired as Chief Justice of the Chattishgarh High Court.

(ii) The Government is at liberty to nominate one or two Senior level IAS Officers at the level of Principal Secretary, serving/retired as Member(s) of the Pay Grievance Redressal Committee.

(iii) The Pay Grievance Redressal Committee shall be given specific terms of reference by the Government, with a request to submit a report/recommendations for taking fresh decision

regarding the enhancement/reduction of the pay scales/grade pay of 52 or more categories of 20 or more departments, etc.

(iv) The Government is directed to constitute the above said committee within a period of three weeks from the date of receipt of copy of this order, prescribing time limit, within which report/recommendations is to be submitted for taking fresh decision.

(v) In view of the constitution of the above said Committee as ordered above, the implementation of G.O.Ms.No.71 dated 26.2.2011 and G.O.Ms.No.242 dated 22.7.2013 insofar as it affects any category of Government Servants/ pensioners/family pensioners, which are not implemented as on today shall not be implemented till fresh decision is taken.

(vi) If any of the categories of Government servants of any department, who have been offered higher scales of pay as on today, it is open to the Government to implement the same insofar as the pay scales, which are beneficial to the employees of such categories.

(vii) As we have appointed the Chairman of the PGRC, we direct the Government of Tamil Nadu to make available office premises with supporting staff and to provide a Government car with driver for the

use of the Chairman for effective functioning of the Committee.

(viii) We fix the remuneration for the Chairman of the Committee as Rs.1.50 lakhs per month and direct the Government to sanction necessary funds towards remuneration and for meeting other expenses for effective functioning of the Committee.

(ix) It is open to the Government to fix remuneration of the Members/Member of the Committee, to be nominated by the Government, if they are retired IAS officer(s)."

3. As against the above the directions, two sets of appeals are filed before the Hon'ble Supreme Court of India. One set was on behalf of the employees and their association while another set was on behalf of the Government. After consideration of the submissions put forth on behalf of the parties, finally, the Hon'ble Supreme of India has disposed of Civil Appeal Nos.10030-10189, 10190 to 10192 of 2017 vide order dated 28.11.2019 by giving directions in paragraph 18 which are extracted as under:

“18. But, it has been more than five years since the directions were issued by the Division Bench of the High Court and as a result of the interim orders passed by this Court, the PGRC could not be set up. In the circumstances, certain modifications in the directions issued by the Division Bench in para 5 of its order are called for and we proceed to direct:-

(A) Direction No.(i) as issued by the Division Bench is reiterated except that Mr. Justice A.S.Venkatachalamoorthy having now expressed his unwillingness, Mr. Justice D. Murugesan, formerly Chief Justice, High Court of Delhi is appointed as Chairman of the Pay Grievance Redressal Committee.

(B) Direction No.(ii) as issued by the Division Bench is accepted and it is added that the Chairman of the PGRC will be at liberty to co-opt any two experts as he deems appropriate as members of the PGRC, who shall be paid such honorarium by the State Government, as the Chairman deems appropriate.

(C) Direction Nos.(iii) and (v) to (vii) issued by the Division Bench are accepted and do not call for any change.

(D) Instead of Rs.1.5 lakhs per month, we fix the honorarium of the Chairman of the PGRC at Rs.3.5 lakhs per month but the other parts of Direction No.(viii) are maintained.

(E) Direction No.(ix) issued by the Division Bench is accepted and does not call for any change.

(F) It is further directed:-

a) Within a week from today, the State Government shall issue appropriate orders constituting the PGRC as stated above.

b) Within a week thereafter, the State Government shall make appropriate and adequate arrangements and provide office space befitting the status of the Chairperson and other Members and also provide adequate staff, secretarial assistance and other facilities.

c) Within two weeks of the constitution of the PGRC all the concerned individuals/associations shall file their representations. No representation filed beyond the period of two weeks shall ordinarily be accepted by the PGRC.

d) Direction No. (iv) issued by the Division Bench shall stand modified to the aforesaid extent.

e) These directions are in addition to and in further elaboration of direction No. (vii) issued by the Division Bench."

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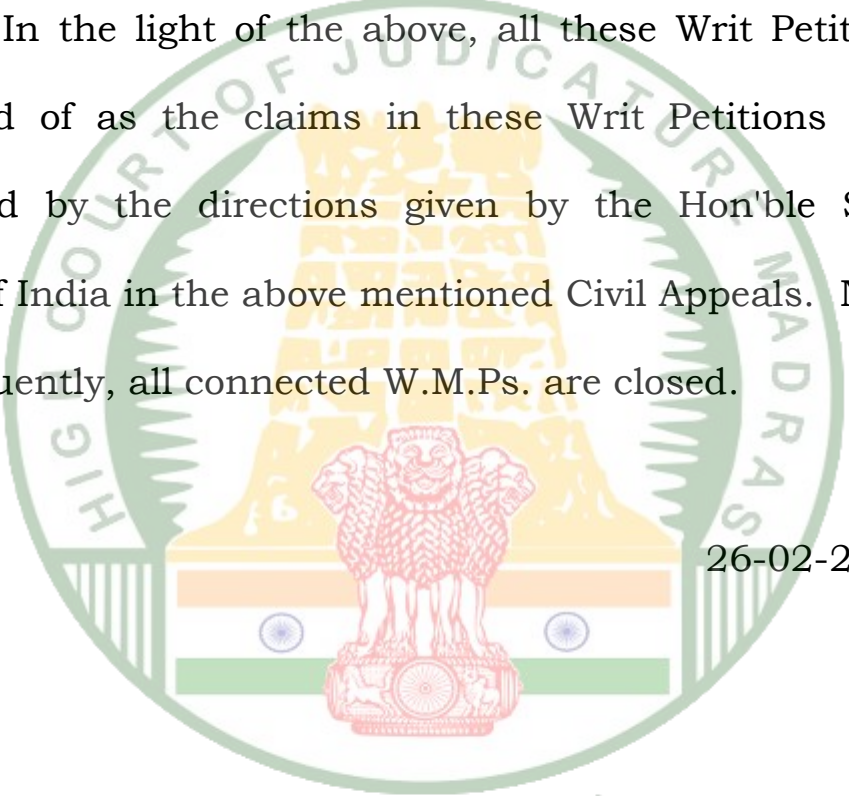
4. When these matters are listed before this Court, the learned counsels appearing both on behalf of the employees as well as Government, would submit that in view of the

exhaustive direction given by the Hon'ble Supreme Court in the above referred to Civil Appeals, these Writ Petitions also may be disposed of on the above terms.

5. In the light of the above, all these Writ Petitions are disposed of as the claims in these Writ Petitions are also governed by the directions given by the Hon'ble Supreme Court of India in the above mentioned Civil Appeals. No costs. Consequently, all connected W.M.Ps. are closed.

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V.PARTHIBAN, J.

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W.P.No.34144 of 2015, etc.

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