



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.07.2020**

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.7972 of 2020

S.Balakrishnan

...Petitioner

-Vs-

1.The Principal Secretary/Commissioner of Industries
and Commerce,
Industrial Department,
Thiru.Vi.Ka.Industries Estate,
Guindy,
Chennai-600 032.

2.The General Manager,
District Industries Centre,
Collectorate Complex,
Sivagangai-630 561.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the first respondent i.e., the Principal Secretary/Commissioner of Industries and Commerce, Chennai to pass appropriate orders on the proposals sent by the General Manager, District Industries Centre, Sivagangai in his R.C.No.0013/A1/2019 dated 07.05.2019 and further reports sent in R.C.No.13894 dated 10.09.2019 and R.C.No.0013/A1/2019 dated 30.09.2019 within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam
For Respondents : Mr.J.Padmavathi Devi,
Special Government Pleader

ORDER

The prayer sought for in this writ petition is for a Writ of Mandamus, directing the first respondent i.e., the Principal Secretary/Commissioner of Industries and Commerce, Chennai to pass appropriate orders on the proposals sent by the General Manager, District Industries Centre, Sivagangai in his R.C.No.0013/A1/2019 dated 07.05.2019 and further reports sent in R.C.No.13894 dated 10.09.2019 and R.C.No.0013/A1/2019 dated 30.09.2019 within a specified time frame that may be fixed by this Court.



2. Heard Mr.S.Visvalingam, learned counsel appearing for the petitioner and Mr.J.Padmavathi Devi, learned Special Government Pleader appearing for the respondents.

3. The petitioner is presently serving as Record Clerk in the District Industries Centre, Sivagangai. Initially, he was serving in Tamil Nadu Khadi and Village Industries Board and he was allotted to District Industries Centre, Sivagangai since he was surplus staff in the Khadi and Village Industries Board among others by proceedings, dated 07.06.2010. In this regard, it is the further case of the petitioner that, as per the G.O.Ms.No.241, Finance (Pay Cell) Department, dated 22.07.2013, the higher start of pay for the posts of Junior Assistant/Typists and Record Clerks was ordered to be stopped. However, subsequently, vide Government letter No.22949/Paycell/2-15-1, dated 09.02.2016, the Government issued instructions regarding employees who joined duty before the date of 01.04.2013 and the higher start of pay was not sanctioned to the individual due to administrative delay can be sanctioned with the concurrence of Finance Department.

4. In this regard, it is the case of the petitioner that, the petitioner joined duty on 21.06.2010 i.e., well before the cut off date i.e., 01.04.2013, therefore, he is entitled for the higher start of pay. In this regard, the petitioner's case seems to have been recommended by the General Manager, District Industries Centre, Sivagangai on 07.05.2019 and the petitioner had also given a representation on 25.09.2019 and in these circumstances, the petitioner's request has not been considered and since the petitioner's superannuation date is 31.03.2022, he has approached this Court by filing this writ petition with the aforesaid prayer.

5. The learned counsel appearing for the petitioner reiterated the aforesaid facts and also brought to the notice of this Court about the import of the G.O.Ms.No.37, Personnel and Administrative Reforms (FR-IV), Department, dated 10.03.2020, where he relied upon paragraph 6(vi), which reads thus:-

"6(vi) The cases of Government servants who have acquired higher qualification prior to issue of this general order, and not sanctioned with advance increments be examined separately as per the previous orders issued, if any, by the administrative department concerned and with reference to the posts specified in that order and if he is otherwise qualified, then the advance increment may be sanctioned by the administrative department concerned after obtaining concurrence of Finance department. If no previous orders were issued by any of the department concerned, then they are not eligible for sanction of any



advance increments for passing higher qualification irrespective of the post held/degree acquired."

6. However, the learned Special Government Pleader appearing for the respondents would submit that, in view of the issuance of Government Order disbanding higher start of pay vide G.O.(MD) No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020, the petitioner's request for higher start of pay has already been addressed to the Commissioner and Director of Industries and Commerce, Chennai-32. After getting necessary instructions, the Joint Director/General Manager of District Industries Centre, who is the second respondent herein would take further action on the plea of the petitioner.

7. In this regard, the written instructions received by the Special Government Pleader, dated 23.07.2020 from the Joint Director/General Manager, District Industries Centre, Sivagangai has been produced before this Court, which reads thus:-

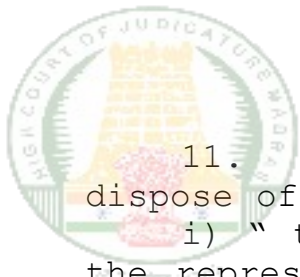
"I wish to inform you that in view of the issuance of Government Orders disbanding the higher start of pay vide G.O.(Ms)No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020, the representation of the individual Thiru.S.Balakrishnan, Record Clerk of this office is pending at the O/O Industries Commissioner and Director of Industries and Commerce, Chennai 32. After the receipt of the orders/clarifications from our Commissionerate/Government, further actions will be taken accordingly. Kindly, submit this fact before the Hon'ble Judge and pray for sufficient time period to file Counter Affidavit in this case."

8. I have considered the said submissions made by both counsel and I have perused the materials placed before this Court.

9. So far as the entitlement of the petitioner to get the higher start of pay is concerned, it emanates from the clarification received from the Government where it is made clear that prior to the cut of date they would be entitled to get the higher start of pay, since the petitioner joined in the service on 21.06.2010 i.e., prior to cut of date, certainly he would also be entitled to get such higher start of pay.

10. Even in G.O.Ms.No.37, P & AR Department, dated 10.03.2020 this has been clarified in paragraph 6(vi) as extracted above. In this regard, a final clarification seems to have been asked for by the second respondent from the Directorate and after getting the same, it has been assured by the second respondent to consider the request of the petitioner and necessary orders there on would be

passed.



11. In that view of the matter, this Court is inclined to dispose of this writ petition with the following directions:-

i) " that the first respondent is hereby directed to consider the representation of the petitioner, dated 25.09.2019 along with report dated 10.09.2019 and 13.09.2019 in the light of the G.O.Ms.No.37, Personnel and Administrative Reforms (FR-IV) Department, dated 10.03.2020 and pass orders there on, on merits and in accordance with law, within a period of eight weeks immediately after the normalcy is restored after COVID-19 period."

12. With this direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal Secretary/Commissioner of Industries
and Commerce,
Industrial Department,
Thiru.Vi.Ka.Industries Estate,
Guindy, Chennai-600 032.

2.The General Manager,
District Industries Centre,
Collectorate Complex,
Sivagangai-630 561.

Order made in
W.P.(MD)No.7972 of 2020
Dated:24.07.2020

MM(CO)

TR(13.08.2020) 4P 3C