



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)Nos.1427 to 1429 of 2018

and

W.M.P. (MD)Nos.1485 to 1488 and 1555 of 2018

C.Palanichamy	.. Petitioner in W.P.(MD).No.1427 of 2018
A.Arockiasamy	.. Petitioner in W.P.(MD).No.1428 of 2018
S.Subramanian	.. Petitioner in W.P.(MD).No.1429 of 2018

Vs.

1.Finance (Pay Cell) Department Rep. by,
The Principal Secretary to Government of Tamilnadu,
St.George Fort,
Chennai- 600 009.

2.Tamilnadu Fire and Rescue Services Department,
Rep. by, the Secretary to Government of Tamilnadu,
St.George Fort,
Chennai-9.

3.The Pension Payment Officer,
Chennai - 600 06.

4.The Accountant General, (AE),
Government of Tamilnadu,
Chennai - 18.

5.The Divisional Officer,
Fire and Rescue Services,
Dindigul Division.

... Respondents in all cases

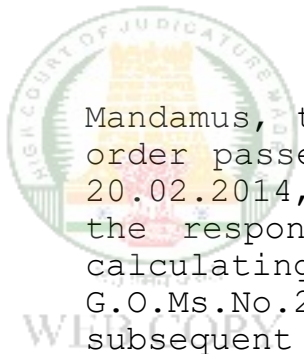
6.The Director General of Police
and the Director of Fire and Rescue Services,
No.17, Rukmani Lakshmipathy Road,
Egmore, Chennai-18.

... 6th Respondent in all cases

[6th respondent is *suo motu* impleaded by
this Court by order dated 11.02.2020]

COMMON PRAYER: Writ Petitions filed under Article 226 of the
Constitution of India for issuance of Writ of Certiorarified

<https://hcservices.ecourts.gov.in/hcservices/>



Mandamus, to call for the entire records pertaining to the impugned order passed by the 5th respondent vide Na.Ka.No.12241/A/2012, dated 20.02.2014, and quash the same as illegal and consequently, direct the respondents to pay a revised pension for the petitioner by calculating the pay fixation as 9300-34800-4200 as per the G.O.Ms.No.234 passed by the 1st respondent, dated 01.06.2009 and subsequent clarified Government Letter issued by the 1st respondent vide 63305 dated 08.11.2010 and letter No.26734/pay cell/2011-1, dated 24.05.2011, issued from the office of the 1st respondent and may consequently direct the respondents 3 and 4 to disburse the pensional benefits to these petitioners with accrued arrears from 01.01.2007.

In all cases:

For Petitioner : Mr.K.P.Narayanakumar

For Respondents 1,2,3 and 5 : Mr.M.Jeyakumaran
Additional Government Pleader

For Respondent No.4 : Mr.P.Gunasekaran

COMMON ORDER

The petitioners herein were originally appointed as 'Firemen' and subsequently, promoted as 'Fireman Drivers'. Ultimately, they had retired from their respective services as 'Driver Mechanics'

2. The grievance of the petitioners are that the posts of 'Fireman Driver' and its promotion post of 'Fireman Mechanic' carries equal scales of pay and therefore they seek for a fixation of the Selection Grade scale of pay of the Fireman Drivers on par with the Drivers working in the other Government Departments. The impugned order is the rejection of the petitioners' request for payment of revised pension.

3. Though the petitioners herein have raised several grounds to substantiate that the respondents are bound to pay the revised pension to the petitioners, by calculating the pay fixation as 9300-34800-4200 in terms of G.O.Ms.No.234, Finance (Pay Cell) Department, dated 01.06.2009, which has been subsequently clarified in the Government letters, dated 08.11.2010 and 24.05.2011. The learned counsel for the petitioners would submit that earlier, when the Additional Secretary to Government, Finance Department had addressed a letter, dated 17.02.2012, with regard to the fixation of pay for Selection Grade Fireman Driver, who had moved to Selection Grade prior to 01.01.2006, it was suggested to the Director General of Police and Director of Fire and Rescue Services, Chennai, to explore the possibility of merging the post of Fireman Driver and the post of Fireman Mechanic, in order to set right the anomaly among these



two posts and the consequent scale of pay. It was further stated therein that, if the Department of Fire and Rescue Services accepts the recommendations of the Government for merging of these two posts, the anomalies could be rectified and the grievances of various employees, including the petitioners herein, will be met.

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4. The respondents have filed a counter affidavit, admitting that such recommendations were also made from the Government on 17.02.2012 and the counter affidavit indicates that a decision is yet to be taken in this regard.

5. On appraisal of the issue involved in the instant case, it is patently clear that when both the posts of Driver Mechanic and Fireman Driver are similar in nature and when there are no regulations differentiating these two posts, there cannot be discrepancies in the pay scales between these two posts. By taking note of these facts, the Government had also rightly recommended to the Director General of Police and the Director of Fire and Rescue Services, for merging of these two posts and thereby fix the Selection Grade Scale of Pay of Fireman Drivers, on par with the Drivers working in the other Government Departments. Though the petitioners are among the similarly placed employees of the Fire and Rescue Services throughout the State, not many of them have come forward before this Court to redress their grievances.

6. In my view, if a final decision is directed to be taken, based on the recommendations of the Government in its letter, dated 17.02.2012, substantial justice could be rendered to all similarly placed Firemen Mechanics in the Department, throughout the State. In view of the recommendations of the Government being made to the Director General of Police and the Director of Fire and Rescue services, they are *suo motu* impleaded as a party respondents in this writ petition.

7. In the light of the above observations, there shall be a direction to the Director General of Police and the Director of Fireman Rescue Services, Chennai, to take further course of action on the recommendation made by the Additional Secretary to Government, Finance (Pay Cell) Department, Secretariat, Chennai-9, in their letter No.9152/PC/2012-1, dated 17.02.2012 and pass appropriate orders and thereby set right the anomaly among the posts of Fireman Driver and Driver Mechanic, as expeditiously as possible. In case, the petitioners are of the view that there is any inordinate delay in taking such a decision, it is open to the petitioners to approach this Court for fixing a time limit.

8. In the light of the observations made, all other grounds raised by the petitioners, shall be left open for deliberations at a later date. These writ petitions stand disposed of accordingly.



No Costs.
closed.

Consequently, connected miscellaneous petitions are

Sd/-

Assistant Registrar (crl.side)

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

PJL

To

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The Principal Secretary to Government of Tamilnadu,
St.George Fort,
Chennai- 600 009.

2.Tamilnadu Fire and Rescue Services Department,
Rep. by, the Secretary to Government of Tamilnadu,
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4.The Accountant General, (AE),
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5.The Divisional Officer,
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Dindigul Division.

6.The Director General of Police
and the Director of Fire and Rescue Services,
No.17, Rukmani Lakshmipathy Road,
Egmore, Chennai-18.

+1 CC to Mr.P.GUNASEKARAN, Advocate (SR-5685[F] dated 11/02/2020)
+3 CC to Mr.K.P.NARAYANA KUMAR, Advocate (SR-6050[F] dated
13/02/2020)

Order made in
W.P. (MD) Nos.1427 to 1429 of 2018
11.02.2020