



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2020

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THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P. (MD)No.16825 of 2014

S.Kannan

... Petitioner

Vs.

1.The Secretary to the Government,
Transport Department,
Secretariat, Chennai-9.

2.The Secretary to the Government,
Finance Department,
Secretariat, Chennai-9.

3.The Director,
Tamil Nadu Motor Vehicles Maintenance Department,
Velachery, Chennai - 600042.

4.The Regional Deputy Director,
Government Automobile Workshop,
Collectorate Complex,
Madurai - 20.

... Respondents

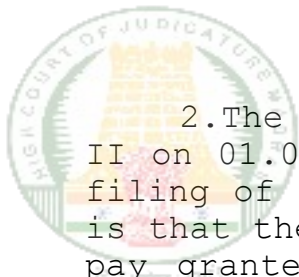
Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to provide the benefit of 5% personal pay along with arrears and other monetary benefits to the petitioner in the light of the Government Orders in G.O.Ms.No.664 dated 24.08.1992, G.O.Ms.No.275 dated 06.04.1995, G.O.Ms.No.497 dated 15.09.1998 Finance (Pay Cell) Department within the time period stipulated by this Court.

For Petitioner : M/S.Tamil Malar
for M/S.T.Lajapathy Roy

For Respondents : Mr.G.Arjunan,
Government Advocate.

ORDER

The relief sought for in the present writ petition is for a direction tot he direct the respondent to provide the benefit of 5% personal pay along with arrears and other monetary benefits to the petitioners in the light of the Government Orders in G.O.Ms.No.664 dated 24.08.1992, G.O.Ms.No.275 dated 06.04.1995, G.O.Ms.No.497 dated 15.09.1998



2.The petitioner was appointed in the post of Electrician Grade II on 01.09.1988 and was working for about 26 years at the time of filing of this writ petition. The grievance of the writ petitioner is that the post of Electrician Grade II is entitled for 5% personal pay granted by the Government in G.O.Ms.No.664, dated 24.08.1992. The fifth pay commission was implemented with effect from 01.05.1988 and at that point of time on account of certain pay anomalies with reference to certain categories, the Government announced 5% personal pay in respect of the categories, which were basic pay anomalies. In other words, few of the pay caused certain anomaly which resulted granting 5% personal pay to certain categories.

3.The writ petitioner, if at all is of the opinion that he is entitled for 5% personal pay, he would have approached the Authorities during the relevant point of time when the fifth pay commission was implemented with effect from 01.05.1988. It is pertinent to note that after the fifth pay commission, the State sixth pay commission was implemented with effect from 01.01.1996. The seventh pay commission was implemented with effect from 01.01.2006 and eighth pay commission was implemented with effect from 01.01.2016. Three pay commissions were subsequently implemented and the scale of pay for all the categories were revised. This being the factum, the writ petitioner filed the present writ petition during the year 2014 after the implementation of further two pay commissions in the year 1996 and 2006.

4.The learned counsel appearing on behalf of the petitioner made a submission that the representation submitted by the petitioner is to be considered.

5.The Constitutional Courts are expected to be conscious while issuing such a direction to consider the representation. The legal bribes are providing advised to restore the lapsed cause of action and based on such lapsed cause of action, the new cause of action is appears to be made by filing representations after lapses of many years and filing writ petition seeking a direction to consider the same. In the event of issuing such a direction to consider the representation in a routine and causal manner by the Courts and the Authorities will pass an order one way or other, then, litigants are attempting to restore the lapsed cause of action and filing another writ petition for the purpose of adjudicating the issues on merits. It is a back door way of the restoration of cause of action, which is otherwise lapsed.

6.Such an attitude of the litigants can never be entertained by the High Courts even for issuing a direction to consider the representation, the Courts are bound to examine whether the cause of action is alive and such a direction can be issued with reference to the merits of the case raised by the litigants. Contrarily, issuing directions to consider the representation in respect of the lapsed



7. In the present case, 5% personal pay was granted during the year 1992 in G.O.Ms.No.664 when the petitioner was in service. He availed the benefits of the sixth pay commission in the year 1996 and seventh pay commission in the year 2006. Thereafter, he filed representation to the Authorities in the year 2014, after lapse of 22 years from the date of Government Order and filing this writ petition seeking direction to consider his case. This being the factum, the petitioner has not established any legal ground so as to consider the relief as such sought for in the present writ petition. Accordingly, the writ petition stands dismissed. No costs.

Assistant Registrar (Cr1.Side)

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Sub Assistant Registrar (CS)

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