



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.7483 of 2015

and

M.P. (MD) No.2 of 2015

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The Tamil Nadu Government Department
Driver's Central Association,
Rep. by its State President T.Jayakodi,
The Forestry Extension Division,
Kopalimalai, Pasumalai,
Near Devasagayam School,
Madurai 625 004.

... Petitioner

-Vs-

1.The Government of Tamil Nadu,
Rep. by Chief Secretary to Government,
Secretariat, Chennai-9.

2.The Government of Tamil Nadu,
Rep. by Principal Secretary to Government,
Finance (Pay Cell) Department,
Secretariat, Chennai-9.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent herein pertaining to G.O.Ms.No.114, Finance (Pay Cell) Department, dated 06.05.2014 and quash the same and direct the respondents to implement the Ordinary Grade, Selection Grade and Special Grade Scales of Pay as indicated in Schedule-II of the Tamil Nadu Revised Scales of Pay Rules, 1998 at Rs.4000-6000, Rs.5000-8000 and Rs.5500-9000 to the Members of the Petitioner Association from 01.01.1996/date of initial appointment in the ordinary Grade and the respective dates of completion of 10 years of service in the ordinary Grade and 10 years in the Selection Grade, respectively with all consequential monetary benefits and also to revise the pensionary benefits on that basis and to pay all arrears within a stipulated time period.

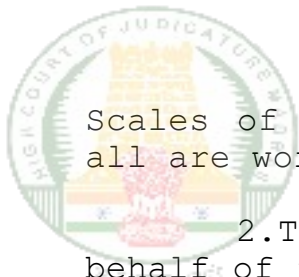
For Petitioner : Mr.M.Ravi

For R2 : Mr.D.Muruganandham

Additional Government Pleader

ORDER

The writ petitioner is the Tamil Nadu Government Department Driver's Central Association. The relief sought for is seeking implementation of Ordinary Grade, Selection Grade and Special Grade



Scales of Pay to the members of the petitioner's association, who all are working as drivers.

2.The learned Additional Government Pleader appearing on behalf of the second respondent brought to the notice of this Court that regarding the grant of Selection Grade and Special Grade to the drivers, the Hon'ble Supreme Court of India decided the issues in the case of **P.Singaravelan and Others Vs. The District Collector, Tiruppur and others** in Civil Appeal Nos.9533-9537 of 2019, dated 18.12.2019. The Hon'ble Supreme Court passed an orders as under:-

"....22.The only question to be settled, therefore, is whether the Appellants are entitled to claim parity with the drivers who have so far been granted benefits vide the orders of the High Court and this Court, as mentioned supra in paragraph 5.

23. In this respect, we find that the High Court in the impugned judgment was correct in concluding that the Appellants cannot claim such relief on the strength of Article 14 of the Constitution of India, when once it has been found that they are not lawfully entitled to the same. It is well-settled by now that a person cannot invoke Article 14 to claim a benefit extended to someone similarly placed if he is not lawfully entitled to such benefit in the first place. Article 14 embodies the concept of positive equality alone, and not negative equality, that is to say, it cannot be relied upon to perpetuate an illegality or irregularity. In fact, this Court has opined that this principle extends to orders passed by judicial fora as well. Thus, the jurisdiction of a higher court cannot be invoked on the basis of a wrong order passed by a lower forum. In this respect, it would be fruitful to refer to the following passage from the decision of this Court in **Basawaraj v. Land Acquisition Officer**, (2013) 14 SCC 81:

"8. It is a settled legal proposition that Article 14 of the Constitution is not meant to perpetuate illegality or fraud, even by extending the wrong decisions made in other cases. The said provision does not envisage negative equality but has only a positive aspect. Thus, if some other similarly situated persons have been granted some relief/benefit inadvertently or by mistake, such an order does not confer any legal right on others to get the same relief as well. If a wrong is committed in an earlier case, it cannot be perpetuated. Equality is a trite, which cannot be claimed in illegality and therefore, cannot be enforced by a citizen or court in a negative manner. If an



illegality and irregularity has been committed in favour of an individual or a group of individuals or a wrong order has been passed by a judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing a similarly wrong order. A wrong order/decision in favour of any particular party does not entitle any other party to claim benefits on the basis of the wrong decision. 19 Even otherwise, Article 14 cannot be stretched too far for otherwise it would make functioning of administration impossible. (Vide Chandigarh Admn. v. Jagjit Singh [(1995) 1 SCC 745 : AIR 1995 SC 705] , Anand Buttons Ltd. v. State of Haryana [(2005) 9 SCC 164 : AIR 2005 SC 565] , K.K. Bhalla v. State of M.P. [(2006) 3 SCC 581 : AIR 2006 SC 898] and Fuljit Kaur v. State of Punjab [(2010) 11 SCC 455 : AIR 2010 SC 1937].)"

This proposition was also recently affirmed by a 3-Judge Bench of this Court in **State of Odisha v. Anup Kumar Senapati** (Civil Appeal No. 7295/2019, judgment dated 16.09.2019).

24. Thus, it is evident that the Appellants cannot claim the Selection Grade and Special Grade scales of pay of Rs. 5000- 8000 and Rs. 5500-9000 respectively, solely on the strength of earlier decisions of the High Court, without showing how they, themselves, are entitled to such benefit in the first place. In such a situation, we are of the considered view that the Appellants can only be granted the benefit of the Selection Grade and Special Grade scales of pay to which they are lawfully entitled in terms of G.O. Ms. No. 162, i.e. Rs. 4000- 6000 and Rs. 4300-6000 respectively.

25. Therefore, in view of the foregoing discussion, we find no reason to interfere with the impugned judgment. The instant appeals are hereby dismissed, and the impugned judgment is confirmed."

3. The order of the Hon'ble Division Bench was confirmed by the Hon'ble Supreme Court of India, accordingly, the pay of the drivers are to be regulated and this Court is of the considered opinion that the Judgment of the Hon'ble Supreme Court of India, is to be followed for the purpose of grant of Selection Grade and Special Grade to the members of the petitioner's union also. Accordingly, the respondents are directed to regulate the scale of pay as applicable with reference to the Judgment of the Hon'ble Supreme Court of India cited supra as expeditiously as possible.



4. With these observations, the writ petition stands disposed of. Consequently, connected miscellaneous petition is dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

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To

1. The Chief Secretary to Government,
Secretariat
Chennai 600 009.

2. The Principal Secretary to Government,
Government of Tamil Nadu,
Finance (Pay Cell) Department,
Secretariat, Chennai-9.

+1 CC to M/s.SPL GP (SR-23145[F] dated 27/11/2020)

W.P. (MD) .No.7483 of 2015
26.11.2020

SR(CO)

KB(07.12.2020) 4P 4C