

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.11803 of 2013

P.Paramasivam

... Petitioner

Vs.

The Director,
Tamil Nadu State Health Transport Department,
Nandanam,
Chennai - 600 035.

... Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondent to grant 5% Personal Pay to the petitioner with effect from 01.09.1998 as done in the case of the category of Fitter Grade-II (now Skilled Assistant Grade - II) as per proceedings of the respondent in Na.Ka.No.10576/A1/08 dated 19.04.2012.

For Petitioner : Mr.P.Rajendran

For Respondent : Mr.J.Ramesh
Additional Government Pleader

ORDER

This writ petition has been filed to direct the respondent to grant 5% Personal Pay to the petitioner with effect from 01.09.1998 as done in the case of the category of Fitter Grade-II (now Skilled Assistant Grade - II) as per the proceedings of the respondent in Na.Ka.No.10576/A1/08 dated 19.04.2012.

2.According to the petitioner, he was initially appointed as Welder Grade - II with effect from 01.03.1991 in the scale of pay of Rs.825-15-900-20-1200, which was revised as Rs.950-20-1150-25-1500, as per the order of the Government dated 01.08.1992. Subsequently, his scale of pay was further revised to Rs.3050-75-3950-80-4590 with effect from 01.01.1996, as per the V Pay Commission recommendations and he was granted selection grade with effect from 13.03.2001. As per the

recommendations of the VI Pay Commission, his pay was fixed at Rs.8190 in the pay band of Rs.5200-20200 + Grade pay of Rs.2400/- with effect from 01.01.2006 and he was granted special grade with effect from 16.03.2011. It is the further case of the petitioner that 5% personal pay was granted with effect from 01.09.1998 to those, who joined service as Fitter Grade II after 27.06.1989 and orders to that effect have been issued by the Director, Tamil Nadu State Health Transport Department, Chennai in Na.Ka.No.10576/A1/08 dated 19.04.2012. Claiming the said benefit, the petitioner submitted a representation dated 24.07.2012 to the respondent, which was not considered, till date. Hence, this writ petition.

3. Upon notice, the respondent filed a detailed counter affidavit, stating that the petitioner was appointed as Welder Grade - II, now skilled Assistant Grade II with effect from 01.03.1991 (i.e.) after 27.06.1989, as directed in G.O.(Ms) No.873, Finance (PC) Department, dated 27.12.1993 and in Government Letter No.19839/AD2/2015-7, Health and Family Welfare (AD2) Department, dated 08.11.2016, he is not eligible for 5% Personal Pay and hence, the claim of the petitioner cannot be considered.

4. The averment so made in the counter affidavit has been seriously refuted by the learned counsel for the petitioner. According to him, the scale of pay for both the Fitter Grade-II and Welder Grade-II is one and the same from 1992 onwards and the petitioner is similarly placed person and hence, 5% personal pay ought to have been granted to him and the denial of the same to the category of Welder Grade II is discriminatory and violative of Articles 14 and 16 of the Constitution of India. Thus, the learned counsel prayed for a direction to the respondent to pass appropriate orders on the representation of the petitioner.

5. The learned Additional Government Pleader appearing for the respondent fairly submitted that the respondent would consider the representation of the petitioner and pass orders, on merits, within a reasonable time to be fixed by this Court.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court directs the respondent to consider the representation of the petitioner dated 24.07.2012, if not already considered, and pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

7. Accordingly, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

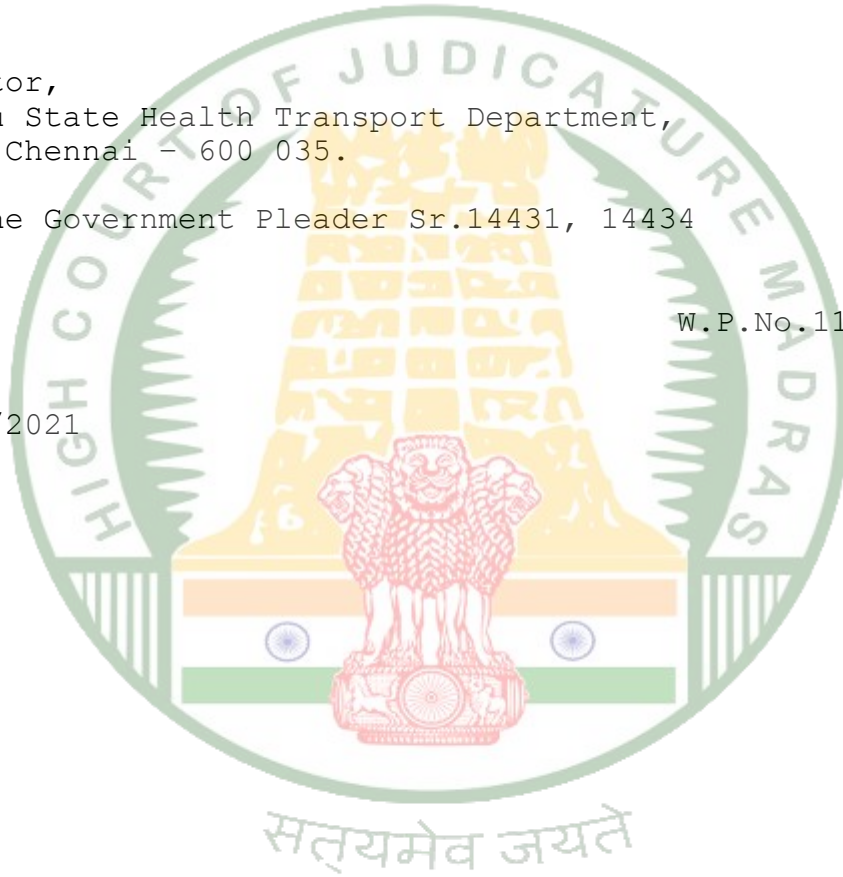
To

The Director,
Tamil Nadu State Health Transport Department,
Nandanam, Chennai - 600 035.

+1cc to the Government Pleader Sr.14431, 14434

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srg 13/07/2021



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