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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :02.09.2021

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.NO.32 OF 2015
AND M.P.NO.1 OF 2015

1. The Secretary to Government,
Finance Department, Govt. of Tamil Nadu,
Fort St. George, Chennai - 9
2. The Secretary to Government,
Energy Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 9
3. The Chief Electrical Inspector to
Government, Guindy, Chennai - 32
4. The State of Tamil Nadu,
rep. by the Secretary to Government,
Public Works Department,
Fort St.George,
Chennai-600 009.

.. Appellants

Versus

A.Dhanabalan

.. Respondent

Prayer:

Writ Appeal is filed under Clause 15 of the Letters Patent, against the order passed by the learned single Judge dated 26.06.2012 in W.P.No.5360 of 2005.

Prayer in W.P.No.5360 of 2005:-

Writ of certiorarified mandamus calling for the records relating to the impugned order of the third respondent passed in Memo.No.24175/E3/99 dated 22.12.2004 quash the same and consequently direct the respondents to revise the basic pay of the petitioner in accordance with pay revision in G.O.Ms.No.511 and 567 finance of the first respondent dated 01.08.1992 and on par with the Electrician Grade-I in the Public Works Department.



For Appellant

.. M/s.R.Neelakandan, State Govt.Counsel

For Respondent

.. M/s.S.T.P.Kuilmozhi

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JUDGMENT

(Judgment of the Court was delivered
by KRISHNAN RAMASAMY, J.)

This intra-Court Appeal has been directed against the order dated 26.06.2012 in W.P.No.5360 of 2005 passed by a learned single Judge of this Court.

2. The respondent herein is the writ petitioner. The case of the writ petitioner is that he was sponsored by the Employment Exchange and joined service on 21.02.1977 as Electrician in the Office of the Chief Electrical Inspector to Government, Guindy, Chennai-32, the 3rd appellant herein. His pay was fixed in the pay scale of Rs.200-5-25-10-300. The 3rd appellant was under the control of Public Works Department and later, the Public Works Department was bifurcated into two Departments, such as Public Works Department and Energy Department and consequently, the 3rd appellant came under the control of Energy Department, the 2nd appellant herein. According to the petitioner, the post of Electrician Grade I in PWD is equivalent to the post of Electrician in the Chief Electrical Inspectorate where, he was initially appointed and the pay of Rs.200/- as basic is equivalent to the post of Electrician Grade-I in PWD. While so, the scale of pay was revised in II Pay Commission vide G.O.Ms.No.222 dated 8.2.1971 and it was fixed as Rs.200/- to the post of Electrician Grade I in the PWD and also to the post of Electrician in the 3rd appellant. Likewise, during the III & IV Pay Commission, the pay was revised both in the post of Electrician Grade I in PWD and the Electrician in the 3rd appellant. After IV Pay Commission, One Man Commission was appointed by the 1st appellant to revise the pay in both the services and consequently, it was revised at Rs.610/-. During V Pay Commission, it was classified as Rs.950/- in the post of Electrician Grade-I in Public Works Department as per G.O.Ms.Nos.511 and 567 of the first appellant dated 01.08.1992. According to the writ petitioner, the said G.O. is applicable to the post of Electricians in the Office of the 3rd appellant also and the Department was bifurcated only in the year 1993 and earlier to the bifurcation, the pay was fixed commonly by the Public Works Department and at that relevant point of time, the writ petitioner was treated on par with the Electrician Grade-I in the Public Works Department as per the aforesaid Government Orders. The grievance of the writ petitioner is that all along, he has been classified on par with Electrician Grade I and drawing the same salary payable to Electrician Grade I there is



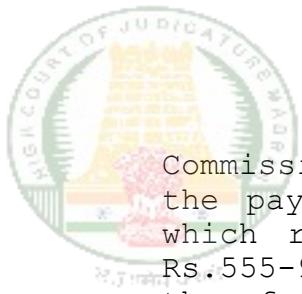
only one post called Electrician, available in the 3rd appellant Department, the petitioner was deprived of the benefit of the above said Government Orders since he was not classified appropriately after the V Pay Commission.

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3. According to the writ petitioner, he made several representations to the authorities claiming the benefits as per G.O.Ms.Nos.511 and 567 dated 01.08.1992. However, the authorities have not passed orders revising the pay of the writ petitioner as per the revised pay scale recommended by V Pay Commission. The 2nd appellant also recommended vide proceedings dated 31.08.2001 that the petitioner is eligible for all the pay on par with Electrician Grade I which post was subsisting in the 3rd appellant Department. By proceedings dated 22.12.2004, the 3rd appellant rejected the claim of the writ petitioner, which prompted him to file the Writ Petition.

4. After taking into consideration the communication dated 16.07.2002, wherein, the 3rd appellant has informed the 2nd appellant that the representation of the writ petitioner would be taken up for consideration after approval of the revised service Rules by the Government and also taking note of the fact that no approval of the revised service Rules have been obtained from the Government, the learned Judge was of the view that by communication dated 31.08.2001 of the first appellant, it had been informed that the post held by the petitioner could be treated on par with the Electrician Grade I in Public Works Department and there is absolutely no reason to deny the claim of the petitioner. Accordingly, the learned Judge has allowed the Writ Petition.

5. Challenging the order of the learned single Judge, Mr. R.Neelakandan, learned State Government Counsel would contend that only Public Works Department at Secretariat was bifurcated into Energy Department and Public Works Department, while the Electrical Inspectorate is not bifurcated and the writ petitioner cannot equate his post to the post of Electrician Grade I in Public Works Department since there is only one post existing in the office of the Chief Electrical Inspector, the 3rd appellant herein. He would further submit that from the inception, there are two different scales in the Chief Electrical Inspectorate, viz., one for non-diploma holders and the other for diploma holders and this position continued till IV Pay Commission and during V Pay Commission, these pay scales have been merged and the pay scale of Rs.950-20-1150-25-1500 has been fixed with a proviso that for Diploma holder, higher start of two stages above the minimum can be fixed. The writ petitioner was getting non-diploma holder scale till III Pay Commission since his academic qualification is SSLC failed. The learned Government Counsel would point out that during IV Pay



Commission, according to One Man Commission's recommendations, the pay scale of Rs.610-1075 was given to the writ petitioner which related to SSLC pass with ITI instead of pay scale of Rs.555-970 with reference to G.O.Ms.No.744 dated 14.08.1986 and therefore, the impact of G.O.Ms.No.511 dated 1.8.1992 was sufficiently applied to the writ petitioner from 1.4.1986 itself. However, as regards G.O.Ms.No.567 dated 1.8.1992 is concerned, according to the learned counsel, it is related to the Public Works Department and the writ petitioner cannot claim the equal pay of Electrician Grade I in Public Works Department since the writ petitioner was getting the pay scale exclusively prescribed to the Chief Electrical Inspectorate. The learned State Government Counsel would finally submit that the claim of the writ petitioner that his pay scale ought to be fixed in equal to the post of Electrician Grade I in Public Works Department, cannot be considered inasmuch as pursuant to the recommendations of the One Man Commission during 1998, there would be no change in scale of pay for any of the posts. Therefore, the learned counsel would submit that without considering these aspects, the learned Judge has erroneously passed the order, which is liable to be set aside.

6. The learned counsel appearing for the respondent/writ petitioner, while reiterating the averments contained in the counter filed on behalf of the respondent, would submit that absolutely, there are no merits in the writ appeal in order to interfere with the order of the learned single Judge and hence, he seeks to dismiss the writ appeal.

7. Heard the learned State Government Counsel for the appellants and the learned counsel for the respondent and perused the entire materials available on record.

8. The main claim of the writ petitioner is that he should be considered on par with Electrician Grade I post in the Public Works Department and thereby he is entitled to the pay scale of Rs.1100-25-1150-30-1660. It is not in dispute that in the year 1977, the writ petitioner joined as Electrician in the Office of the Chief Electrical Inspector/3rd appellant herein, which was under the control of Public Works Department and at that time, the pay scale of the writ petitioner in the 3rd appellant department and the pay scale of Electrician Grade-I in the Public Works Department, was one and the same i.e. Rs.200-5-25-10-300. During the revision of III Pay Commission, as per G.O.Ms.No.1050, dated 5.10.1978, the pay was revised as Rs.325-10-445-15-550 in respect of the post of Electrician Grade I in PWD as well as Electrician in the 3rd appellant department. Like wise, during IV Pay Commission, it was further revised as Rs.555-15-615-20-795-25-975. After IV Pay Commission, one Man Commission was appointed by the first appellant to revise the



pay in respect of both the services. Based on the One Man Commission's report, the pay scale in respect of the post of Electrician in the 3rd appellant was revised as 555-970 (for persons SSLC failed) and Rs.610-1075 (for persons SSLC passed). During V Pay Commission, by virtue of G.O.Ms.No.511 dated 01.08.1992 these pay scales have been merged and a common pay scale of Rs.950-20-1150-25-1500 has been fixed with proviso that for Diploma holder, higher start of two stages above the minimum can be fixed. While so, in the year 1993, 3rd respondent was bifurcated from PWD and became a separate entity while the Public Works Department was bifurcated into Energy Department and Public Works Department. Here it is pertinent to note that in PWD and Energy Department, there are two type of posts, viz., Electrician Grade I and Electrician Grade II, whereas, in 3rd appellant department, i.e. Chief Electrical Inspectorate, there is only post, viz., Electrician.

9. It is the contention of the appellants that the writ petitioner was getting non-diploma holder scale till III Pay Commission since his academic qualification is SSLC failed and during IV Pay Commission, according to One Man Commission's recommendations, the pay scale of Rs.610-1075 which related to SSLC passed with ITI was given to the writ petitioner instead of pay scale of Rs.555-970. Therefore, even according to the appellants, irrespective of academic qualification, the writ petitioner was given Rs.950-1500. It is further contention of the appellant that the claim of the writ petitioner to revise his pay based upon G.O.Ms.Nos.511 and 567 dated 01.08.1992 on par with Electrician Grade I in PWD, cannot be considered since the G.O.Ms.No.511, dated 01.08.1992 is common and the benefit under the said G.O. was given to the writ petitioner, however, G.O.Ms.No.567 dated 01.08.1992 is exclusively related to PWD, which refers three different branches and each branch consists Electrician Grade I and Electrician Grade II and their pay scales are, Rs.950-1500 and Rs.1100-1660 and hence, the writ petitioner cannot equate his post to that of Electrician Grade I in PWD. This contention, in our view, is not tenable. All along till the IV Pay Commission, the writ petitioner has been treated on par with the Electrician Grade-I in PWD and corresponding pay scale has also been given. In fact, in the grounds of appeal, the appellants have categorically mentioned irrespective of academic qualification of the writ petitioner, his pay scale was revised to 610-1075 (SSLC passed) instead of pay scale of Rs.555-970 (SSLC failed) during IV Pay Commission as per One Man's Commission's recommendations. It is pertinent to note that right from the inception, i.e. II Pay Commission onwards, the pay scale of the writ petitioner has been revised on par with the pay scale of the Electrician Grade I in PWD. In fact, in the 3rd appellant department, there are no Grade I and Grade II Electrician posts, but only the post of Electrician is



there and therefore, the duties and responsibilities prescribed to the post of Electrician Grade I in PWD are the same prescribed to the post of Electrician in 3rd appellant department, which, the petitioner has been discharging and hence, the contention of the appellants that the pay scales prescribed to the post is according to the duties and responsibilities prescribed and it may vary to department to department, cannot be sustained. If the 3rd appellant department also consists two category of posts, viz., Grade I and Grade II Electrician posts and if he had been treated as Grade II Electrician (SSLC failed), then all the contentions raised by the appellants are acceptable and the claim of the writ petitioner cannot be countenanced. In fact, the writ petitioner was appointed in the pay scale of Rs.200-5-25-10-300 which was the same pay scale prescribed for the post of Electrician Grade I. If no bifurcation had taken place, the petitioner might have continued to be treated on par with Electrician Grade I and thereby, his pay might have been revised accordingly. Therefore, we are of the view that the petitioner is entitled to the revision of pay as per G.O.Ms.No.567 dated 01.08.1992. In such view of the matter, we do not find any irregularity or infirmity in the order of the learned single Judge in order to interfere with the same.

10. In the result, the Writ Appeal fails and it is dismissed. No costs. Consequently, connected MP is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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To

1. The Secretary to Government,
Finance Department, Govt. of Tamil Nadu,
Fort St. George, Chennai - 9
2. The Secretary to Government,
Energy Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 9
3. The Chief Electrical Inspector to
Government, Guindy, Chennai - 32



4. The State of Tamil Nadu,
rep. by the Secretary to Government,
Public Works Department,
Fort St.George,
Chennai-600 009.

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+1cc to the Government Pleader, S.R.No.44606

W.A.No.32 of 2015

JPL(CO)
PM/06/10/2021