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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2021

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.17940 of 2007

P.Gurusamy

... Petitioner

Vs.

The Divisional Fire Officer,
Tamil Nadu Fire and Rescue Services,
Madurai division,
Madurai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to fix the pay in revised scale of pay according to G.O.No.534, dated 28.09.1998, based on the Table-5 with reference to the pay scale of Driver Mechanic (07.07.1997) i.e., Rs.1,472/- in the revised scale of 5000-150-8000 at Rs.5,450/- and allow the petitioner to get all pensionary benefits.

For Petitioner : Mrs.S.Padma

For Respondent : Mr.K.Magesh
Special Government Pleader

O R D E R

The petitioner filed O.A.No.2170 of 2004, directing the respondent herein to fix the pay in revised scale of pay according to G.O.No.534, dated 28.09.1998, based on the Table-5 with reference to the pay scale of Driver Mechanic (07.07.1997) i.e., Rs.1,472/- in the revised scale of 5000-150-8000 at Rs.5,450/- and allow the petitioner to get all pensionary benefits. On abolition of the Tribunal, the matter stood transferred to this Court and re-numbered as W.P.No.17940 of 2007.



2. The case of the petitioner is that originally, he was appointed as a Fireman on 02.05.1973 and thereafter, he was given promotion as a driver on 31.12.1981 and his ordinary grade scale of pay is Rs.975-25-1150-30-1660. After completion of 10 years of service, as a driver, he was given selection Grade on 04.01.1992 for the scale of pay of Rs.1200-30-1560-40-2040 and on 01.04.1996, he was given increment in the salary, so he received to the tune of Rs.1,380/-.

3. The further case of the petitioner is that he was promoted as Driver Mechanic on 07.07.1997 and his salary was fixed as Rs.1,410 + 62 P.P. While being so, the Government issued G.O.Ms.No.534 Finance (Pay Commission) Department and as per the said G.O., the petitioner's salary has to be fixed according to the Table-5 as existing scale Rs.1200-30-1560-40-2040, revised as 5000-150-8000 and in the table according to the stage of existing scale of the petitioner revised is Rs.5,450/-, however, the respondent fixed the revised scale based on the Table 3 as though the existing scale is Rs.975/-. Hence, the petitioner made several representations to the respondent, however, there was no response, hence, the petitioner approached the Tribunal and after abolition, the matter stood transferred to this Court.

4. In the counter statement filed by the respondent, it is stated that G.O.534, is applicable to the Driver Mechanic who were working on 01.01.1996. The petitioner was promoted as Driver Mechanic only on 07.07.1997 and he was not a Driver Mechanic on 01.01.1996 and therefore, the petitioner was not eligible for fixing the pay in the revised scale of driver mechanic.

5. The learned counsel for the petitioner would submit that the petitioner had discharged his duties honoured by his superiors with absolute integrity and devotion and has always carried himself with dignity on becoming a member of the service and the petitioner has also received many Rewards and Awards, which includes the chief Minister Award in the year 1994. It is further submitted that non fixation of revised salary is against the principles of natural justice to the Rule of law. The non fixation of revised salary inspite of the petitioner's representation, who is having unblemished record of lengthy service in the Department, is wholly unjustifiable and arbitrary.



6. The learned Special Government Pleader appearing for the respondent would submit that G.O.534, is applicable to the Driver Mechanic who were working on 01.01.1996. The petitioner was promoted as Driver Mechanic only on 07.07.1997 and therefore, the petitioner was not eligible for fixing the pay in the revised scale of driver mechanic.

7. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and perused the materials available on record.

8. It is not in dispute that originally, the petitioner was appointed as a Fireman on 02.05.1973 and subsequently, promoted as Driver on 31.12.1981 and further promoted as Driver Mechanic on 07.07.1997.

9. The main contention of the learned counsel for the petitioner is that petitioner's salary has to be revised according to G.O.No.534, dated 28.09.1998, based on the Table-5 with reference to the pay scale of Driver Mechanic (07.07.1997) i.e., Rs.1,472/- in the revised scale of 5000-150-8000 at Rs.5,450/-, however, the respondent wrongly fixed the salary based on Table-3.

10. It is to be noted that the petitioner was working as driver as on 01.01.1996 and G.O.534 is applicable to the driver mechanic who were working on 01.01.1996. Therefore, the petitioner is not eligible for the fixation of pay in the revised scale of driver mechanic from 01.01.1996. The petitioner was promoted to the post of Driver Mechanic only on 07.07.1997 and so the revision of scale of pay ordered in G.O.534 cannot be notionally applied to the case of the petitioner for the purpose of fixation of pay as he was not at all holding the post of driver mechanic at that point of time. Further, as per paragraph 2 of G.O.534 Finance (Pay Cell) Department, dated 28.09.1998 the revision of scale of pay ordered shall take effect from 01.01.1996 notionally for the purpose of fixation of pay in the revised scale of pay and with monetary benefit from 01.09.1998. On the date of 01.01.1996 the petitioner was not working as Driver Mechanic, therefore, he is not entitled for notional benefit of fixation of pay. G.O.534 dated 28.09.1998 is applicable only to the driver mechanic who were working at the time of 1.1.1996. The petitioner's request was duly considered by the respondent



department and that was referred to by the respondent in the reply affidavit holding that the petitioner is not eligible for fixing the pay in revised scale of driver mechanic. In such view of the matter, the petitioner is not entitled for the relief sought for in this writ petition. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

rns/nvsri

To

The Divisional Fire Officer,
Tamil Nadu Fire and Rescue Services,
Madurai division,
Madurai.

+1cc to the Government Pleader, S.R.No.53492

W.P.No.17940 of 2007

GPL(CO)
SB(26/10/2021)