



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 17.08.2021

Coram

WEB COPY

The Hon'ble Mrs. Justice PUSHPA SATHYANARAYANA
and

The Hon'ble Mr. Justice KRISHNAN RAMASAMY

W.A.No.1016 of 2021
and C.M.P.No.6387 of 2021

The Commissioner,
Tambaram Municipality,
Tambaram,
Chennai-600 045.

.. Appellant/Respondent No.2

Versus

1. Tmt.Radha Rama Rao

2. The Director of Municipal Administration,
Chepauk, Chennai-600 005.

.. Respondents/Respondent No.2

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent, against the order passed by the learned single Judge dated 28.01.2010 in W.P.No.15141 of 2010

Prayer in W.P.No.15141 of 2010:-

Writ Petition Praying filed under Article 226 of the Constitution of India praying for issue a Writ of mandamus, Directing the 2nd respondent to grant Selection Grade from 01.10.1978 and pay the difference of enhanced salary and consequentially direct the respondent to pay all the benefits including the enhancement of the Pension along with 18% interest.

For Appellant .. Mr.P.Srinivas

For Respondent .. Mr.C.Jayaprakash,
Govt.Advocate for R2

JUDGMENT

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

This intra-Court Appeal has been directed against the order



dated dated 28.01.2010 in W.P.No.15141 of 2010 of 2005 passed by a learned single Judge of this Court.

2. The 1st respondent herein is the writ petitioner. She worked as Junior Assistant and was relieved from service with effect from 23.08.1983 on her request under the Voluntary Retirement Scheme. As per recommendation of III Pay Commission, the State Government issued G.O.Ms.No.1050 Finance P.C.Department dated 05.10.1978 introducing selection grade and special grade pay scales with effect from 01.10.1978. Pursuant to the same, the petitioner made representations to the appellant herein, requesting to sanction the selection grade and consequential benefits to her, to which she is entitled to. But the appellant has not considered the claim of the writ petitioner due to non-availability of Service Register of the writ petitioner. According to the appellant, the claim of the writ petitioner for sanction of Selection Grade cannot be finalized without Service Register. In such circumstances, the claim of the writ petitioner was not considered, which prompted her to approach the Writ Court.

3. According to the appellant, for the purpose of fixing the selection grade pay scale, various factors, such as, any unauthorized leave availed or if any leave on loss of pay exists, details of leave taken, grant and postponement of increments, etc., have to be taken into consideration and these factors, will be available only in the Service Register of the individual and without the Service Register, it is not feasible for the appellant to calculate and sanction the selection grade to the writ petitioner. According to the appellant, despite thorough search in the Record storage, the Service Register of the writ petitioner could not be traced out. In such circumstances, the writ petitioner was directed to produce any available Service Register if she maintained in duplicate by her for verification, but she did not produce the same.

4. The learned Judge, after taking note of all the above facts and circumstances, directed the appellant to consider the claim of the writ petitioner for sanction of selection grade and for that purpose to calculate on the basis of the available records, otherwise on par with the benefits provided to her immediate junior, who joined service after 26.02.1960 and disburse the same.

5. Challenging the order of the learned single Judge, the present Writ Appeal has been preferred by the appellant.

6. Mr.P.Srinivas, learned counsel appearing for the appellant, would submit that the Service Register is a clear proof of total service of the employee rendered by him/her and



grant of selection grade is entirely dependent upon the qualifying service and in the absence of Service Register, absolutely, it is not possible for the appellant to consider the claim of the writ petitioner. The learned counsel would also submit that nearly after a lapse of 27 years, the writ petitioner has filed the writ petition, which is liable to be dismissed for delay and laches. He would point out that the learned Judge ought not to have granted the relief despite taking note of the fact that the Service Register was not available and that the writ petitioner has not produced a copy of the Service Register, which she maintained.

7. On perusal of the order of the learned Judge, we do not find any infirmity in the order. The only impediment that has been projected by the appellant for not considering the claim of the writ petitioner for grant of selection grade, is non-availability of the Service Register. According to the appellant, despite their thorough search in the Record storage, the Service Register of the writ petitioner could not be traced out, which made the appellant handicapped to implement the order of the learned single Judge. We are unable to fortify the submission made by the learned counsel for the appellant.

8. It is the bounden duty of the appellant to maintain the Service Registers of the employees and because of non-availability of the Service Register, the writ petitioner cannot be deprived of the benefit of selection grade, to which, admittedly, she is entitled to, and so far not granted to her. There is no justification on the part of the appellant in depriving the claim of the writ petitioner by citing the reason that the Service Register was misplaced and without which, there is no possibility for consideration of the claim of the writ petitioner. Since it is purely a lapse on the part of the appellant, it is the responsibility of the appellant to take all possible steps to ensure the grant of selection grade to the writ petitioner. In fact, the learned Judge has directed the appellant to calculate on the basis of available records, otherwise on par with the benefits provided to her immediate junior, who has joined service after 26.02.1960. Therefore, we do not find any scope to interfere with the order of the learned Judge.

9. Accordingly, the Writ Appeal stands dismissed. No costs. Consequently, connected CMP is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar



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To

1. The Commissioner,
Tambaram Municipality,
Tambaram,
Chennai-600 045.
2. The Director of Municipal Administration,
Chepauk, Chennai-600 005.

+1cc to the Government Pleader, S.R.No.41463

W.A.No.1016 of 2021

VG-II (CO)
CT(22/09/2021)