



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2021

CORAM :

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN
and
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

W.P.No.16801 of 2021
and
W.M.P.No.17780 of 2021

1. Union of India
Rep. by its Director General of Posts,
New Delhi.
2. The Chief Postmaster General,
TamilNadu Circle,
Anna Salai, Chennai-600 002.
3. The Senior Superintendent of Post Offices,
Madurai Division,
Madurai-625 002.

... Petitioners

Vs

1. K.Subramanian
2. K.Ayyapan
3. The Registrar,
Central Administrative Tribunal,
Chennai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance a Writ of Certiorari, calling for the records relating to the order passed by the 3rd respondent herein in O.A.No.400 of 2015 dated 29.03.2017 and quash the same.

For Petitioners : Mr.V.Chandrasekaran



O R D E R
(Order of the Court was made by T.V.THAMILSELVI, J.)

WEB COPY

The matter has been heard through "Video Conference".

2.The learned counsel for the petitioners submitted that the original application was filed before the 3rd respondent by challenging the rejection order dated 02.01.2014, by which the benefits under Assured Career Progression Scheme (ACP- scheme) in the pay scale of Technician, was rejected for the reason that the 1st and 2nd respondents herein were not Technicians and they were working only as Wiremen which is a distinct category of post and the post 'Technician' is not a promotional hierarchy for Wiremen. However, the 1st and 2nd respondents were conferred with two ACPs attached to the post of Wiremen in the next higher pay scale for the reason that the post Wiremen was not a feeder category to any post including that of Technician.

3.He also submitted that ACP benefit was introduced to keep up the moral of the employees working without promotion for a long time. But wrong precedents were set in the earlier round of litigation by omitting to consider the vital factual aspect that any benefit of pay that is granted in the Department of Telecommunication cannot have any bearing on the reduction of pay in respect of the employees of the Postal Department, as both these departments are distinct in nature. However, the 3rd respondent mechanically allowed O.A.No.400 of 2015 without examining these aspects, by placing the sole reliance on the fact that ACP-II benefit was granted to the Wiremen in the promotional hierarchy of Technician erroneously in respect of few employees, notwithstanding the fact that post on Technician is non-existent in the Postal Department and available only in the Department of Telecommunication. Therefore, the orders were passed by the competent Court in respect of very few individual cases and such orders were to be implemented as exceptional cases and that will not alter the legal position of entitlement in respect of remaining employees. So this Writ Petition is filed on the ground that the order passed by the 3rd respondent is mechanical in nature and without proper examination of factual backdrop. Hence, he prayed to allow this Writ Petition.

4.It is admitted fact that the respondents 1 and 2 filed O.A.No.310/00400/2015 seeking the relief, "to quash the order dated 02.01.2014 in APA/86-879/2013 of the 2nd respondent and

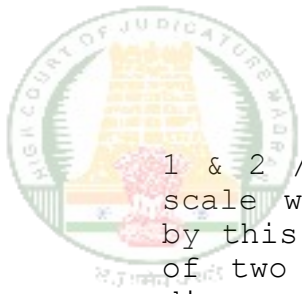


direct the respondents to pay the applicant the scale of pay of Technicians, namely Rs.4,500-125-7000 from the date on which they became ACP-Wiremen and the scale of pay of Rs.5000-150-8000 from the date on which they became ACP-II Wiremen, with arrears and all other consequential benefits, together with interest at the rate of 12% per annum and thus render justice."

5.The facts reveal that the respondents 1 & 2 /applicants were appointed as Wiremen w.e.f 31.05.1983 and they were given ACP-I on 09.08.1999 by order dated 27.04.2002 in the scale of pay of Rs.3050-75-3950-80-4500 by order dated 14.06.2007. As per the 5th Pay Commission recommendations, the scale of pay of Technician was fixed at Rs.3200-85-4900 with effect from 01.01.1996. So, they approached the Tribunal, and filed O.A.No.424 of 2000 and prayed for pay scale of Rs.4500-125-7000 scale, which was allowed on 23.04.2011, against which the Department has preferred a writ petition in W.P.No.20349/2001 and the same was dismissed on 17.03.2005, by confirming the order of the Tribunal.

6.Similarly, one Sri.D.Ravichandran and Shri.K.Thiagarajan. ACP-I Wiremen filed O.A.No.525/2008 for granting them the scale of pay of Technician i.e..Rs.4500-125-7000 from the date on which they became ACP-I Wiremen and the same was allowed on 25.08.2009, against which the Department filed W.P.No.13971 of 2010, which was dismissed on 04.08.2010 by confirming the order of the Tribunal. Thereafter the 2nd petitioner / 2nd respondent herein passed order on 01.07.2011 revising the scale of respondents 1 & 2 /applicants in the contempt proceedings. These respondents / applicants made representation on 09.02.2013 to grant the scale of pay of Rs.4,500-125-7000 on becoming ACP-I Wiremen in the scale of pay of Technicians and the same was replied in item 3(1) by the 2nd petitioner that it would apply only to the individuals who filed the case and got orders from the Court, and it could not be extended to all. Therefore, the respondents 1 & 2 / applicants filed O.A.No.1350 of 2013 and the same was disposed of. Even then the 2nd petitioner rejected the claim stating that such scale of pay is applicable only to the Wiremen under ACP-I and II, since there is no promotional post for Wiremen, but such clarification is not applicable in the State of Tamil Nadu. Since the promotional post of Technician from the post of Wiremen is still in existence and force, the respondents 1 & 2 / applicants approached the Tribunal seeking the aforesaid relief.

7.The petitioners herein also contested the said O.A. On hearing both sides, the Tribunal concluded that the respondents



1 & 2 / applicants are the retired persons, as the Technician scale was revised to Rs.4,500-125-7000 and the same was upheld by this Court in W.P.No.13971 of 2010 and implemented in respect of two other employees. So, the petitioners were directed to dispose of the case of the respondents 1 & 2 / applicants in similar manner, as per the procedures known to law. Aggrieved by the said order, the petitioners have preferred this Writ Petition.

8. Heard Mr.V.Chandrasekaran, learned Standing Counsel for the Petitioners.

9. At the time of arguments, the learned Standing Counsel for the petitioners submitted that the post of technician is not-existing in the Postal Department and it is available only in the Department of Telecommunication. Any payment benefits granted under Telecommunication Department cannot have access with payment benefit to Postal Department employees. But without considering this aspect, the 3rd respondent herein allowed O.A.400 of 2015 and prayed to set aside the same.

10. But as discussed above, already similar persons were benefited by the order passed in W.P.No.13971 of 2010 dated 04.08.2010, in which one Sri.D.Ravichandran and Shri.K.Thiagarajan ACP-I Wiremen, were granted a scale of pay of Technician i.e., Rs.4500-125-7000 from the date on which they became ACP-I Wiremen. So the present respondents 1 & 2 / applicants who are appointed as Wiremen are also entitled for the same benefit like that of the persons who got remedy in W.P.No.13971 of 2010. Hence, this Court does not find any merit in this Writ Petition.

11. Accordingly, this Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No Costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

rri



To

1. The Registrar,
Central Administrative Tribunal,
Chennai.

W.P.No.16801 of 2021
and
W.M.P.No.17780 of 2021

GPL (CO)
SU (27/09/2021)