

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.10475 of 2014

V.Kanitha

... Petitioner

Vs.

1. The Secretary to Government,
Tourism and Culture Department,
Secretariat, Chennai.
2. The Commissioner,
Archaeological Department,
Chennai - 8.
3. The Curator,
Government Oriental Manuscripts Library,
Madras University Campus, Chennai - 600 005. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to revise the pay scale of the petitioner as Rs.950-20-1150-25-25-1500 for the post of MENDER right from the date of G.O.Ms.511 dated 01.08.1992 by amending the old Adhoc Service Rules dated 1962.

For Petitioner : M/s.Karan & Uday

For Respondents : Mr.A.N.Thambidurai, SGP
R1 & 2

ORDER

Heard both sides and perused the materials available on record.

2. Seeking a direction to the respondents to revise the pay scale of the petitioner as Rs.950-20-1150-25-1500 from the date of her appointment for the post of Mender (trade post) as per G.O.Ms.No.511 dated 01.08.1992 by amending the old Adhoc Service Rules of the year 1962, the petitioner has come up with this writ petition.

3. According to the petitioner, she was appointed as Mender (Binding Section) in Government Oriental Manuscripts Library on 12.02.1991 in the scale of pay of Rs.825-15-900-20-1200. As per the recommendation of One Man Committee, the Government issued G.O.Ms.No.762 Finance (Pay Cell) Department dated 20.08.1986 adopting uniform revised scale of pay for the trade posts and requested all the departments to send proposals for revision of pay scale for the same. Subsequently, on the basis of the fifth pay commission, the scale of pay was further revised, as per G.O.Ms.No.666 Finance (Pay Cell) dated 27.06.1989. Thereafter, as per the direction of the Tamil Nadu Administrative Tribunal as well as the recommendations of the Official Committee, the Government passed G.O.Ms.No.511 Finance (Pay Cell) Department dated 01.08.1992, prescribing scale of pay as Rs.950-1500 for Grade II trade posts and Rs.1100-1660 for Grade I posts. It was further stated in the said G.O. that the revised pay scale be allowed only based on the amendment to G.O.Ms.No.666 Finance (PC) Department dated 27.06.1989 and the entire departments be directed to send a proposal as per amending service rules. However, the scale of pay of the petitioner, at the time of appointment, was fixed at Rs.825-15-900-20-1200, instead of Rs.950-20-1150-25-1500 for the reason that the third respondent failed to send a proposal as per G.O.Ms.No.511 dated 01.08.1992. Stating that for no fault on the part of the petitioner, her right to receive the revised pay from 1992 was deprived due to the failure of the third respondent in not sending a proposal to amend the Adhoc rules for the trade posts, which is arbitrary and illegal, the present writ petition came to be filed.

4. Denying the averments made by the petitioner, the respondents filed a detailed counter affidavit, wherein, at paragraph no.14, it is stated as under:

"With reference to the averments made in Paragraph 14 of the affidavit, it is submitted that the petitioner's request for revision of the scale of pay in the post of Binder was forwarded by the Commissioner, Department of Archaeology, Chennai - 8 vide letter No.A1/1079/2009, dated 15.10.2009 to Tamil Nadu Government. But the scale of Pay of Rs.3050-75-3950-80-4590 (pre revised Rs.950-1500) requested by petitioner, was not considered in 4th Pay Commission. However, proposal has been sent to Government for re-designating the Binder Post as skilled Assistant Grade II with revised pay scales as applicable Grade - II trade posts. It is not correct as stated in paragraph 14 of the affidavit that due to failure on the part of 3rd respondent in not sending a proposal to amend the Adhoc rule for the Trade Posts, the petitioner is getting a lower grade of pay of Rs.825-15-900-20-1200. Further it

is also pointed out that pay revision cannot be given retrospective effect as the incumbent in other trade posts will also seek similar scale revision, which will re-open all settled issues."

5. From the aforesaid statement made in the counter affidavit filed by the respondents, it is apparent that a proposal was sent to the Government for re-designating the post of Binder as skilled Assistant Grade II, with revised pay scale as applicable to Grade II trade posts and the same is pending consideration. In such circumstances, this Court deems it fit and appropriate to direct the first respondent Government to consider the said proposal, if not already considered, and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above direction, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

vrc

To

1. The Secretary to Government,
Tourism and Culture Department,
Secretariat, Chennai.
2. The Commissioner,
Archaeological Department,
Chennai - 8.
3. The Curator,
Government Oriental Manuscripts Library,
Madras University Campus, Chennai - 600 005.

+1cc to Mr. KARAN & UDAY, ADVOCATE, Sr.No.2290

+1cc to the Government Pleader, Highcourt, Madras, S.R.No.2143

GSM(CO)

SM/25/02/2021

W.P.No.10475 of 2014