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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.18120 OF 2021

(Through Video Conferencing)

S.Selvarajan

... Petitioner

.Vs.

1. The State of Tamil Nadu,
Rep.by Secretary to Government,
(Home - III) Department,
The Secretariat,
Chennai - 09.
2. The Director General of Police,
Dr. Radhakrishnan Salai,
Mylapore,
Chennai - 04.
3. The Principal
Police Training School,
Villupuram.

... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents -2 and 3 to set right the pay anomaly of the petitioner on a par with his junior A.Thangarathnam, DSP (Retd) and send the revised pay and pension pay with arrears to the first respondent for approval and implementation.

For Petitioner : M/s.K.Ravi Anantha Padmanaban

For Respondents : Mr.V.P.R.Elamparithi
Government Advocate



ORDER

The petitioner was promoted as Deputy Superintendent of Police on 23.11.2018, pursuant to a panel which was released on 31.10.2018 vide G.O.Ms.No.2193 Home (Police 2) department. The petitioner was at Serial No.26 whereas one A. Thangarathinam was at Serial No.29. Pursuant to the aforesaid Government Order, the petitioner of the said A.Thangarathinam were also posted. However, while fixing the pay the petitioner's pay was fixed at Rs.71,100/- whereas the said A.Thangarathinam was given a pay of Rs.75,400/-.

2. Under these circumstances, the petitioner had send a representation dated 15.03.2019. The respondent by their communication dated 07.08.2019 bearing reference No.Rc.No.170180/PBA II(1)/2019 informed the petitioner as follows:-

3.In this connection, as per Government letter No. 77032 / FR-1 / 93-2 / 2016-1, dated: 15.02.1993 of P&AR(FR-1) Department the anomaly of Junior getting more pay may be rectified only among the posts that were regularized and necessary clarification is awaited from the Government. On receipt of clarification, the same will be informed to the all Unit officers.

4.Hence the service books of Thiru.S.Selvarajan, Deputy Superintendent of Police, Police Recruit School, Villupuram and Thiru.A.Thangarathinam, Deputy Superintendent of Police, (Retired) Kanniyakumari District are returned herewith. The receipt of the same should be acknowledged at once.

3. The learned counsel for the petitioner has submits that under similar circumstances, in the case of one Thiru.Karthikeyan, Additional Superintendent of Police who has since retired, the respondents have issued G.O.(D).No.398 (Home department) dated 26.02.2020 pursuant to an orders passed by the Madurai Bench of the Madras High Court in W.P.No.7371 of 2019, similar benefits is also to be given to the petitioner. He further submits that though the respondents by their communication dated 07.08.2019 have stated that the pay anomaly will be rectified only among the posts that were regularized necessary clarification were awaited, yet it has not been done so far.

4. In this connection, reference was made to paragraph 10 and 11 of G.O.(D).No.398 (Home department) dated 26.02.2020



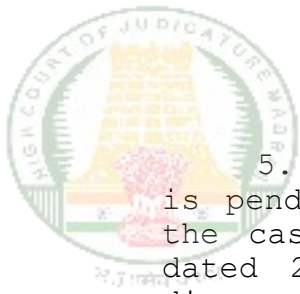
which reads as under:-

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The pay of the senior Thiru M.Karthikeyan was fixed directly under FR 22B on his date of promotion, whereas the pay of the junior Thiru.V.Ashok Kumar was fixed as per his option (ie) after accrual of increment in the lower post and hence the pay anomaly arose between the senior and junior. Both were in the same cadre prior and after their promotion and the time scale of pay for both the posts are identical and the scales of pay of the lower and higher posts in which both the junior and senior entitled to draw are also identical. Though Thiru M.Karthikeyan, Additional Superintendent of Police (Retired) has retired from service, the conditions stipulated under ruling 2 of FR 22(b) have been fully satisfied. Hence, the Government have decided to direct to step up the pay of Thiru.M.Karthikeyan on par with the pay of his junior Thiru.V.Ashok Kumar, wef 01.07.2008.

Accordingly, the Government order that the pay of Thiru.M.Karthikeyan, Additional Superintendent of Police (Retired) be stepped up from Rs.24,470/- to Rs.25,200/- in the post of Deputy Superintendent of Police on par with his junior Thiru.V.Ashokkumar w.e.f.01.07.2008 subject to the condition that his pay fixation now ordered will be reviewed while regularisation of the temporary panel of Inspector of Police fit for appointment by recruitment by transfer as Deputy superintendent of Police (Category-I) for the year 2007-2008 approved in G.O.Ms.No.658, Home (Pol.2) Department, dated 10.06.2008 and if any wrong fixation noticed later, the excess amount drawn consequent on such wrong fixation, would be recovered from him and credited to Government.

11.The Government also order that the other requests of Thiru.M.Karthikeyan, Additional Superintendent of Police (Retired) in his representation, dated 30.01.2019 in respect of his fixation of pay are hereby rejected as they are not in accordance with the existing rule provisions.



5. Considering the fact that the petitioner's representation is pending to the respondents and in view of the fact that in the case of a similar person G.O.(D).No.398 (Home department) dated 26.02.2020 has been issued, this Court is inclined to dispose the writ petition by directing the respondent to consider the case of the petitioner interms of reasonings adopted in G.O.(D).No.398 (Home department) dated 26.02.2020. The respondents shall consider and pass appropriate orders on merits within a period of eight weeks from the date of receipt of this order.

6. Writ Petition stands disposed of with the above observations. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
(Home - III) Department,
Secretariat,
Chennai - 09.
2. The Director General of Police,
Dr. Radhakrishnan Salai,
Mylapore, Chennai - 04.
3. The Principal
Police Training School,
Villupuram.

+1cc to M/s.K.Ravi Anantha Padmanaban, Advocate, S.R.No.43612
+1cc to the Government Pleader, High Court, Madras, S.R.No.44274

W.P.NO.18120 OF 2021

SJ(CO)
PBS/05/10/2021