



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 20.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.18540 of 2021
and
W.M.P.No.19779 of 2021

1. Union of India rep., by its,
Direction General of Police,
New Delhi
2. The Chief Postmaster General,
Tamilnadu Circle,
Anna Salai, Chennai-600 002
3. The Senior Superintendent of
Post Offices, Tiruchirapalli
Tiruchirapalli-620 001

...Petitioners

Vs

- 1.M.Jayaraj
- 2.K.Marimuthu
- 3.The Registrar,
Central Administrative Tribunal,
Chennai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the order passed by the third respondent herein in O.A.No.399 of 2015 dated 05.11.2019 and quash the same.

For Petitioner : Mr.V.Chandrasekaran

O R D E R

[Order of the Court was made by V.SIVAGNANAM, J.]

This Writ Petition has been filed seeking issuance of writ of Certiorari calling for the records relating to the order passed by the third respondent herein in O.A.No.399 of 2015 dated 05.11.2019 and quash the same.



2. The learned counsel for the petitioner submitted that the order of the third respondent is without proper consideration of factual backdrop and mis-interrupting fact that the post of technician is next promotional post for wireman, the nature of duties staff like wire man and technician are same. The third respondent mechanically followed the decision in O.A.No.525 of 2008, this Court also failed to consider the nature of the work in W.P.No.20349 of 2001, the pay scale of 'Technician Cadre' remains unchanged (i.e) Rs.3200-85-4590. Hence, the fixation of pay scale of the applicants in the 1st financial up-gradation under the Assured Career progression scheme of the category of wireman is correct. Further, the matter involves the policy decision of Government of India, the balance of convenience and the principles of equity stands only in favour of the writ petitioner and reiterated other grounds raised in the grounds of appeal and thus pleaded to set aside and quash the order passed by the third respondent herein in O.A.No.399 of 2015 dated 05.11.2019 and thus pleaded to allow the writ petition.

3. The learned counsel appearing for the respondent supported the order of the third respondent and further contended that similarly placed persons filed O.A.No.424 of 2000 and O.A.No.525 of 2008 for grant of pay scale at Rs.5000-150-8000 as recommended by the 5th pay commission report. The third respondent/Tribunal of its order dated 23.04.2001 and 25.08.2009 respectively allowed applications against which the department filed W.P.No.20349 of 2001 and W.P.No.13791/2010, both the writ petitions were dismissed on 17/03/2005 and 4/08/2010 respectively and thereby confirmed the order of the Tribunal. Therefore, identically situated same persons should be treated alike. Therefore, the writ petition is not maintainable and thus pleaded to dismiss the writ petition.

4. Heard the learned counsel for the parties, we have considered the matter in the light of the fact and circumstances of the case.

5. On perusal of material on records, it indicates that the respondents 1 and 2 were working as a wire man from 01.06.1983 and they were retired from service on superannuation on 30.06.2015 and 31.07.2013 respectively. Further, the second respondent/Marimuthu died on 22/02/2021, both the respondents were granted ACP I in the year 1999 and they were placed in the pay scale of 4000-100-6000 and subsequently, they were granted ACP II and placed in the pay scale of 4500-125-7000. The claim of the respondents 1 and 2 is that they should be placed in the Pre-revised scales of pay of Rs.4500-125-7000 and Rs.5000-150-8000 on granted of ACP I and II respectively. This claim is disputed by the appellant on the ground that the financial up-



gradation under the Assured Career Progression Scheme shall be given to the next higher grade in accordance with the existing hierarchy in the cadre category of posts without creating new post for the purpose. However, in case of isolated post in the absence of defined hierarchied grades, financial up-gradation shall be given by the Department concerned in the immediate next higher pay scale alone. These wireman posts are isolated posts only and the nature of duties of wireman and technician also vary. Any how, similarly placed persons claimed same benefit and filed O.A.No.424 of 2000 and O.A.No.525 of 2008 which was allowed by the Tribunal on 23.04.2001 and 25.08.2009 respectively. The department challenged the order by filing W.P.No.20349 of 2001 and W.P.No.13971 of 2010 which were dismissed on 17.03.2005 and 04.08.2010 respectively. The department further did not challenge the order before the Hon'ble Supreme Court and implemented the order. In the circumstance, the Tribunal following the judgment of the Hon'ble Supreme Court reported in State of U.P. & Others V.Arvind Kumar Srivastava & Others [2015 (1) SCC 347] identically situated persons should be treated alike and not doing so would amount to discrimination and violative of Article 14 of the Constitution of India. Merely because similarly situated persons did not approach the Court earlier should not be treated differently. On this principle allowed the O.A.No.399 Of 2015 filed by the respondent. We find no reason to interfere with the order of the Tribunal. Hence, we confirmed the order of the Tribunal and dismiss the Writ Petition as it has no merit.

6. In the result, the Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsn

To

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2. The Chief Postmaster General,
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NSK 23/11/2021