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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.18961 OF 2021

(THROUGH VIDEO CONFERENCING)

R.Dakshinamoorthy

... Petitioner

Vs

1. The Secretary to Government,
Highways Department,
Fort St. George,
Chennai - 600 009.

2. The Chief Engineer
Highways, Chepauk,
Chennai - 600 005.

3. The Divisional Engineer,
Highways, Cuddalore.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to refix the petitioner's salary in the grade Rs.5,500.00 - Rs.9,000/- with effect from 01.01.1996 and consequently to pay the petitioner all arrears of salary and pension as paid to others under G.O.(Ms).No.257 dated 21.10.2014 Finance (CMPC) Department and as ordered in W.P.No.20256 of 2010.

For Petitioner : Mr.D.Baskar

For Respondents : Mr.L.S.M.Hasan Fizal
R1 to R3 Government Advocate

ORDER

The petitioner had already filed a writ petition in W.P.No.5498 of 2012 which came to be dismissed by the Hon'ble Division Bench of this Court along with a batch of writ petitions by an order dated 08.07.2015 with the following observations:-



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"42. Therefore, in the result, all the writ petitions filed by the individual employees claiming Selection Grade Scale of pay of Rs.5000-8000 and Special Grade Pay Scale of Rs.5500-9000 are liable to be dismissed. However, there are a few writ petitions such as W.P.Nos.23550 of 2010, 5498 of 2012 and 30616 of 2012, where the employees claim that they are not even granted the admissible Selection Grade and Special Grade Scales Pay of Rs.4000-6000 and Rs.4300-6000 respectively".

"43. Therefore, with a clarification that all the petitioners in the writ petitions and the respondents in the writ appeals are entitled only to a Selection Grade Scale of Pay of Rs.4000-100-6000 and a Special Grade Scale of Pay of Rs.4300-100-6000, but not more than that, all the writ petitions filed by the employees are dismissed. All the writ appeals filed either by the State Government or by various Heads of Departments or by various officers of the Government or by various Local Bodies or Boards or Corporations, shall stand allowed. There will be no order as to costs".

2. The Special Leave Petitions filed by some of the persons who were aggrieved by the aforesaid order were partly allowed by the Hon'ble Supreme Court in Civil Appeal Nos.9533 to 9537 of 2019 by an order dated 18.12.2019 by confirming the order of the Hon'ble Division Bench of this Court with the following observations:-

"5. As discussed supra, it has not been disputed before us that the drivers concerned were not entitled to any promotional avenues. Thus, it is evident that the High Court rightly concluded that the drivers were entitled to the full benefits of the appropriate pay scale under Schedule II of the 1998 Rules. However, in light of our foregoing finding that persons employed in the post of drivers in various departments in the Government of Tamil Nadu, are only entitled to Ordinary, Selection and Special Grade Pay Scales in terms of Serial No.6 of Schedule II of the 1998 Rules, i.e. at Rs.3200-4900, Rs.4000-6000 and Rs.4300-6000 respectively, we have no hesitation to hold that the High Court erred in directing fixation of such pay scales to drivers employed at the High Court in terms of Serial



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No.8 of the Schedule II, fixing Selection Grade and Special Grade Scales of Pay of Rs.5000-8000 and Rs.5500-9000 respectively.

6. The appeals are therefore allowed partly, to the extent that the State Government is directed to fix the pay scale benefits available to the Respondents in the instant appeals in terms of Serial No.6 of Schedule II of the 1998 Rules under G.O.Ms.No.162."

3. The case of the petitioner is that the petitioner has earlier filed a writ petition in W.P.No.11569 of 2011 which came to be disposed by an order dated 21.06.2011 by directing the respondents to consider and pass appropriate orders.

4. Thereafter, the petitioner appears to have sent a representation and filed W.P.No.28765 of 2019 which was also disposed on 17.10.2019. Under these circumstances, the petitioner has sent a representation dated 19.07.2021 to the respondents.

5. Appearing on behalf of the respondents, learned Government Advocate for the respondents submits that W.P.No.28765 of 2019 was filed suppressing the fact the petitioner had earlier filed W.P.No.5498 of 2012 for the identical relief which came to be dismissed by an order dated 08.07.2015. He further submits that further appeals filed by some of the aggrieved persons before the Hon'ble Supreme Court were only partly allowed by an order dated 18.12.2019.

6. Since the issue now stands fully covered by the decision of the Hon'ble Division Bench of this Court in W.P.No.5498 of 2012 by order dated 08.07.2015, the request of the petitioner for disposing the representation dated 19.07.2021 cannot be countenanced. Therefore, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

arb/nst



To

1. The Secretary to Government,
Highways Department,
Fort St. George,
Chennai - 600 009.

2. The Chief Engineer,
Highways, Chepauk,
Chennai - 600 005.

3. The Divisional Engineer,
Highways, Cuddalore.

+1cc to the Government Pleader, S.R.No.46853

W.P.No.18961 of 2021

PCH(CO)
RLP(26/10/2021)