

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.07.2021

PRONOUNCED ON : 08.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.21165 of 2017

R.Krishnasamy ... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Minerals Ltd.,
31, Kamarajar Salai,
Chepauk, Chennai-600 005.

2.The Divisional Manager, TAMIN
65/19A, Tammanna Nagar, I Street,
Krishnagiri District-635 001.

3.The Assistant Manager,
Karandpalli Quarry TAMIN,
Thally Taluk,
Krishnagiri District-635 107.

4.State of Tamil Nadu
rep. by the Principal Secretary to Government,
Finance (PC) Department,
Fort St. George,
Chennai-600 009.

5.State of Tamil Nadu
rep. by the Secretary to Government,
Industries Department,
Fort St. George,
Chennai-600 009.

[R4, R5 impleaded as per order
dated 30.01.2020 made in
WMP.2240/2020 in WP.21165/2017 by DKKJ)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to Na.Ka.No.918/E5/2016 dated 23.03.2016 passed by the first respondent, quash the same and further direct the first respondent to consider the petitioner's representation dated 21.12.2015 afresh by treating the same as one within the time limit for seeking re-option, as per the letter No.63305/Pay Cell/2010-1 dated 08.11.2010 of the Principal Secretary to Government, Finance (PC) Department, Secretariat, Chennai-600 009.

For Petitioner : Mr.D.Shivakumaran

For Respondent : Mrs.A.Srijayanthi
No.1

For Respondent : Mr.K.Tippu Sultan, GA
Nos.4 & 5

ORDER

The present Writ Petition is heard through Video Conferencing on 20.07.2021.

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2. The petitioner herein, who is employed as a Mine Mate under the respondents herein, had sought for selection grade pay with effect from 12.05.2009 in the pay scale of Rs.12,710-Rs.5,200/-Rs.20,200/- + GP Rs.2,400/-. His request came to be

dated 23.03.2016, on the ground that the employees would be eligible for the selection grade pay only if they had exercised their option on or before 21.01.2014 and since the petitioner had made his claim only on 21.12.2015, it was belated and accordingly came to be rejected.

3. Heard Mr.D.Shivakumarn, learned counsel for the petitioner and Mrs.A.Srijanthi, learned counsel for the first respondent, as well as, Mr.K.Tippu Sultan, learned Government Advocate appearing on behalf of the respondents 4 & 5.

4. The first respondent herein, had fixed the selection grade scale of pay to the petitioner with effect from 12.05.2009, on the basis of the recommendations of the One Man Commission 2010, the Government had issued orders revising the scales of pay on various posts notionally with effect from 01.01.2006. In a subsequent clarification issued by the Government on 08.11.2010, the revision was confined only to the employees, who were awarded selection grade/special grade, prior to 01.01.2006 and in the case of employees, who have exercised their option to come over to the revised scales of pay on the date of their award of selection grade/special grade between 01.01.2006 and 31.05.2009.

selection grade/special grade scales of pay and had accordingly made a request on 21.12.2015 for re-fixation of his grade pay. His request was rejected on 23.03.2016 by the first respondent, on the ground that he had belatedly exercised the option after the cut off date of 21.01.2014, as informed through the order of the first respondent dated 17.09.2013.

5. I do not find any infirmity in the impugned order passed by the first respondent. Apparently, the first respondent herein had chosen to reject the petitioner's request, based on the original clarification issued by the Principal Secretary to the Government, confining the revised selection grade/special grades of pay to the employees, who had exercised their option to come over to the revised scales of pay on the date of their award of selection grade/special grade. As such, the first respondent herein cannot be strictly found fault with, since they are bound by the clarifications issued by the Government. When a scheme or clarification of the Government proposes a matter to be done in one particular manner, nothing more or less could be done by the departments under the Government. As a matter of fact, the first respondent may not have the authority to relax the date of receiving the options from the employees, since such cutoff date was made by the Government. The clarification issued by the Government dated

08.11.2010, is not challenged in the present Writ Petition. As such, this Court is unable to extend the cutoff date, which would amount to relaxing the original clarification dated 08.11.2010 of the Government itself.

6. It is stated by the learned counsel that the respondents had revised the pay scale for two of the mine-mates namely, Thiru Ahmed Ali and Thiru. Senthamarai attached to Tiruvannamalai Taluk and that the case of the petitioner is also similar to them. In this connection, the petitioner had given a representation on 21.12.2015, the consideration of which has led to passing of the impugned rejection order dated 23.03.2016.

7. However, while replying to the petitioner's letter dated 21.12.2015, the first respondent herein had not dealt with this aspect. Whenever the case of an employee in a Government Service is extended with certain benefits, even by overlooking the regulations governing it, the similarly placed employees would be entitled to the same benefit on the ground of discrimination. If the stand taken by the petitioner that the first respondent had revised the scale of two of their employees after the expiry of the cutoff date is found to be true, then the petitioner would also be entitled for the same. Since the first respondent has not considered this

them to reconsider the petitioner's request afresh.

8. Accordingly, the impugned order passed by the first respondent herein in Na.Ka.No.918/E5/2016 dated 23.03.2016, is hereby quashed and consequently, there shall be a direction to the first respondent herein to reconsider the petitioner's representation dated 21.12.2015 on its own merits and pass appropriate orders in accordance with law, atleast within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above observations and directions, this Writ Petition stands disposed of. There shall be no orders as to costs.

08.09.2021

Index:Yes/No

Order: Speaking/Non Speaking

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To

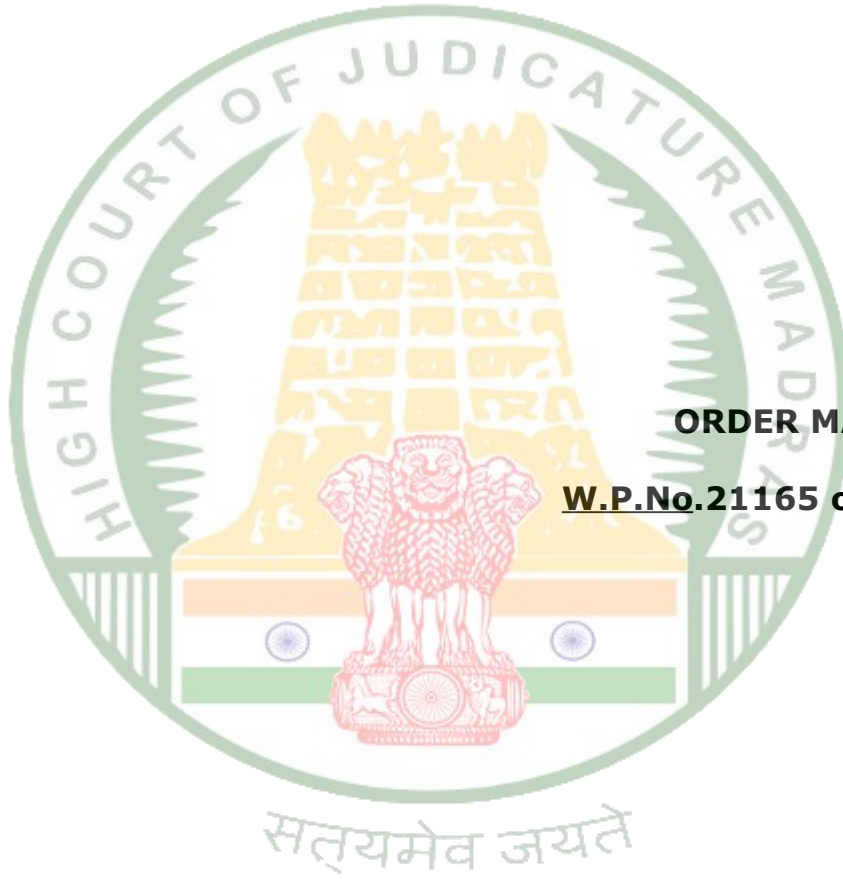
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M.S.RAMESH.J,

DP



**ORDER MADE IN
W.P.No.21165 of 2017**

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