



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P. (MD)No.13604 of 2010

K.Kalirajan

... Petitioner

-vs-

1.The State of Tamil Nadu, rep. by its
Secretary to Government,
Animal Husbandry, Dairy and
Fisheries Department,
Secretariat,
Chennai - 600 009.

2.The Commissioner and Director,
Department of Animal Husbandry and
Veterinary Services,
Teynampet,
Chennai - 600 006.

3.The Regional Joint Director of
Animal Husbandry,
Madurai - 625 020.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent in his letter ROC No.2202/EE1/10 dated 15.02.2010 addressed to the first respondent and quash the same and consequently, direct the second respondent to fix the pay of the petitioner on par with the pay of his junior, Thiru.K.Srinivasan with effect from the date of his appointment as Fieldman i.e., with effect from the date 06.05.1981 and to pay the arrears of pay and allowances and pensionary benefits.

For Petitioner
For Respondents

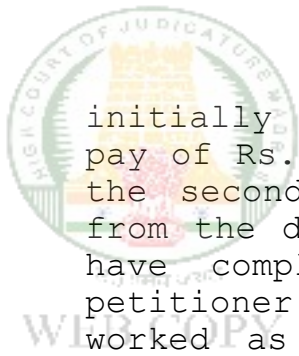
: Mr.A.Thirumurthy
: Mr.D.Muruganantham
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the communication of the second respondent dated 15.02.2010 addressed to the first respondent and consequently, direct the second respondent to fix the pay of the petitioner on par with the pay of his junior, namely, Thiru.K.Srinivasan with effect from the date of his appointment as Fieldman i.e., with effect from the date 06.05.1981 and to pay the arrears of pay and allowances and pensionary benefits.

2.The case of the petitioner is that the petitioner was

<https://hcservices.ecourts.gov.in/hcservices/>



initially appointed as Maistry on 01.09.1965 in the time scale of pay of Rs.70-2-100 under the third respondent which is a unit under the second respondent. The petitioner's service was regularised from the date of appointment i.e., from 01.09.1965 and declared to have completed probation period of two years. Further, the petitioner was promoted as Fieldman with effect from 16.11.1968 and worked as such till 15.11.1969. The services in the post of Fieldman was regularised with effect from 16.11.1968.

3. While so, in the year 1969, thirty five poultry farms in the State were closed and consequently, the petitioner was reverted from the post of Fieldman to the post of Maistry from 16.11.1969 to 31.12.1969. Further, the Animal Husbandry Department in the State was re-organised and many posts were abolished and consequently, the petitioner was ousted from service from 01.01.1970 to 04.03.1970 for want of vacancy. However, this break-in-service period was condoned later. Again, the petitioner was appointed as menials paid from the contingency fund from 05.03.1970 to 19.07.1972 and promoted as Office Assistant on 20.07.1972 at Madurai Region. Thereafter, the petitioner was promoted as Maistry in District Livestock Farm, Pudukkottai on 27.03.1973 and further promoted as Fieldman in the year 1981 and worked as Fieldman from 1981 to till his retirement on 31.05.2004. The grievance of the petitioner is that his junior one K.Srinivasan was promoted as Fieldman in the year 1977, however, the petitioner was not given promotion and monetary benefits on par with the said K.Srinivasan, for which, he had repeatedly made representations and finally, his representation was rejected. Hence, the present Writ Petition is filed.

4. The learned Counsel appearing for the petitioner would submit that though the petitioner had initially entered into service as Maistry in the year 1965 and worked in various places and the said K.Srinivasan also was initially appointed as Mazdoor and worked as Maistry in different level and was given promotion in the year 1977 whereas the petitioner was given promotion only in the year 1981. Further, the petitioner's pay was not fixed on par with the said K.Srinivasan. However, the second respondent had rejected the request of the petitioner. The said rejection is *non est* in law. Accordingly, the learned Counsel appearing for the petitioner prayed for allowing the Writ Petition.

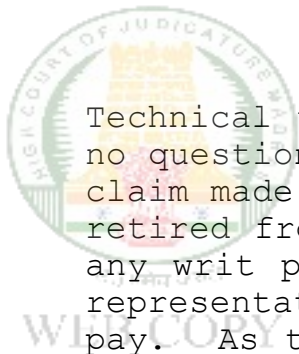
5. The learned Additional Government Pleader appearing for the respondents by referring to the counter submitted that the petitioner was promoted and appointed temporarily under Rule 10(a) (1) as Maistry by the Regional Deputy Director of Animal Husbandry, Thanjavur vide proceedings dated 30.03.1973 and posted at District Livestock Farm, Pudukkottai and subsequently, his appointment of Maistry was regularised. However, the petitioner, on his own wishes, had interchanged his service from Administrative wing i.e., from the post of Office Assistant to the Technical wing i.e., to the post of Maistry by foregoing his earlier services. Therefore, his services should be calculated from 07.04.1973 which is the date of



his appointment as Maistry at District Livestock Farm, Pudukkottai. It is further submitted that the petitioner's services of Maistry and Fieldman could not be taken into account since he was ousted from service and he was appointed as Office Assistant which comes under the basic service in the Administrative side whereas the Fieldman post comes under the Technical side. Further, the petitioner was not in continuous service whereas the said K.Srinivasan was in continuous service without any break and hence, the claim of the petitioner is not at all maintainable. When single unit seniority has been maintained by the officer concerned for each farm, the petitioner cannot compare with the said K.Srinivasan, who had been working as a demonstrating Maistry at Eachenkottai from 07.11.1975 and promoted as Fieldman in the same unit on 06.06.1977. Therefore, the appeal preferred by the petitioner was not considered by the second respondent. It is further stated that the said K.Srinivasan was working as Maistry at Exotic Cattle Breeding Farm, Eachenkottai at the time of his promotion whereas the petitioner was working in District Livestock Farm, Pudukkottai and hence, the claim of seniority made by the petitioner with other Farm seniority is not justifiable and hence, it was rejected. Normally, the posts of Maistry were considered among the employees who were working in that particular farm and no seniority for those posts at the District level or State level were maintained. Hence, the claim of the petitioner was not considered and disposed of accordingly. Challenging the said order, the petitioner has come forward with the present Writ Petition which according to the respondents is unsustainable.

6.This Court heard the learned Counsel appearing for the petitioner and Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

7.The facts in the present case is not disputed. Admittedly, the petitioner had entered into the service as Mazdoor in the year 1965. According to him, he was appointed as Maistry in the year 1965 and thereafter, he worked in various posts and finally, he retired as Fieldman on 31.05.2004. The grievance of the petitioner is that his pay was not fixed on par with his junior by name K.Srinivasan. Further, the petitioner claims that though the said K.Srinivasan, is junior to the petitioner, he acquired Fieldman promotion in the year 1977 whereas the petitioner was given promotion only in the year 1981 which is erroneous. However, the fact remains that the petitioner did not challenge the promotion of the said K.Srinivasan at the relevant point of time and did not ask for promotion on par with the said K.Srinivasan while he was in service and after retirement, he made representations to fix the pay on par with K.Srinivasan and the same was rejected on the ground that the petitioner, on his own wishes, had interchanged his service from Administrative wing to technical wing whereas the said K.Srinivasan continued in the Administrative wing and not in



Technical wing. As the two wings are entirely different, there is no question of claiming seniority on par with his junior. Since the claim made by the petitioner cannot be an acceptable one and that he retired from service in the year 2004 and however, he has not filed any writ petition till 2004 and only after his retirement, he made representations seeking promotion on par with his junior and to fix pay. As the same was rejected, thereafter only, in the year 2010, the petitioner had filed the present Writ Petition which is not an acceptable one. Therefore, the settled issues cannot be unsettled after a long lapse of time.

8. For the reasons aforesaid, this Writ Petition fails and the same is dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2021
Sub Assistant Registrar(CS)

SRM

To

1.The Secretary to Government,
Animal Husbandry, Dairy and Fisheries Department,
Secretariat,
Chennai - 600 009.

2.The Commissioner and Director,
Department of Animal Husbandry and
Veterinary Services,
Teynampet,
Chennai - 600 006.

3.The Regional Joint Director of
Animal Husbandry,
Madurai - 625 020.

+1 CC to M/s.SGP (SR-114[F] dated 05/01/2021)

+1 CC to M/s.A.THIRUMURTHY, Advocate (SR-166[F] dated 05/01/2021)

W.P(MD)No.13604 of 2010
04.01.2021

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