



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2021

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.616 of 2021

P.Shanmugavalli

W/o.Late Thiru.S.Pandiasekaran

... Petitioner

Vs.

1.The Accountant General (A & E),
361, Anna Salai,
Chennai - 600 018.

2.The Principal District Judge,
Sivagangai District,
Sivagangai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent i.e., the Accountant General, Chennai relating to his Letter No.PO2/3/10226121/ADK dated 15.09.2020 and quash the same and consequently direct the first respondent i.e., the Accountant General, Chennai to approve the proposals already sent by the Principal District Judge, Sivagangai in his letter D.No.4450/CN/2020 dated 14.08.2020 and the Principal District Judge, Sivagangai may also be directed to resubmit the proposals already sent his letter dated 14.08.2020 for revising the pension of Late Thiru.S.Pandiasekaran, within a specified time frame that may be fixed by this Hon'ble Court.

For Petitioner : Mr.S.Visvalingam

For Respondent No.1 : Mr.P.Gunasekaran

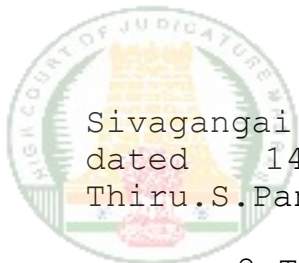
For Respondent No.2 : Mr.G.Thalaimutharasu

* * * * *

ORDER

(Order of the Court was made by T. S. SIVAGNANAM, J.)

This Writ Petition filed by the wife of a Senior Bailiff, who died in harness, seeking to quash Letter of the Office of the Accountant General in No.PO2/3/10226121/ADK, dated 15.09.2020, and consequently, to direct the first respondent i.e., the Accountant General, Chennai to approve the proposals already sent by the Principal District Judge, Sivagangai in his letter D.No.4450/CN/2020 dated 14.08.2020 and to direct the Principal District Judge,



Sivagangai to resubmit the proposals already sent through his letter dated 14.08.2020, for revising the pension of Late Thiru.S.Pandiasekaran, within a time frame.

2.The impugned order came to be passed returning the proposal submitted by the petitioner through proper channel for stepping up of Grade Pay payable to her husband from Rs.2800/- to Rs.4200/- in the cadre of Selection Grade Senior Bailiff for two reasons. The first being the grade pay of selection grade Senior Bailiff, in which the husband of the petitioner was mostly functional, is restricted to the grade pay of 1st level of promotion post (assistant) i.e., Rs.2800/- as per Government Letter No.49470/PC/90-1 Fin PC dated 14.09.1990 read with para 4(iii) of Government Letter No.63305/PC/10-1 dated 08.11.2010. The second reason is that name of the petitioner does not find a place in W.P.No.32149 of 2018.

3.So far as the second reason is concerned, the same is not justified. Even assuming that a person is not a party to an order, but if he is able to show that for valid reasons he could not join the other petitioners and that his case further deal with a similar ground, the Court will decide whether the decision can be applied to the particular person. Therefore, the said reason in the impugned order needs to be set aside.

4.The other ground stated in the impugned order is that the Grade Pay of Selection Grade Senior Bailiff is restricted to Rs.2800/- as per the relevant Government Orders. We have gone through the Government Letter No.63305/PC/10-1, dated 08.11.2010, and in clause 4 (i), it has been stated as follows:-

"4) The above issue has been examined by Government in detail in the light of the orders issued in para-4 of Government Order second cited and the consequential revision made to the various categories in the Ordinary Grade scales of pay based on the One Man Commission recommendations and subsequent Government Orders. Accordingly, I am directed to issue the following guidelines for fixation of pay in the revised Selection Grade /Special Grade posts:

- i. The revised Selection Grade / Special Grade scales of pay in the case of employees awarded Selection Grade / Special Grade prior to 1-1-2006 and in whose cases the Ordinary Grade scales of pay have been revised based on the recommendations of One Man Commission / further order of Government thereon shall be fixed as per the scales of pay indicated in the Annexure - I to this letter following the same methodology of fixation of pay in the Selection Grade /



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Special Grade scales of pay of employees as was done in pre--2006 scales of pay as indicated in Appendix-II of G.O.Ms.No.162, Finance (PC) Department, dated: 13-4-98 subject to the same condition stipulated therein that if the revised Selection Grade / Special Grade scales of pay indicated in the Annexure-I happens to be higher than the first level / second level promotion posts, then in such cases only the revised Selection Grade / Special Grade scales of pay should be restricted to the level of their first level and second level promotional posts respectively."

5. So far as the petitioner's husband is concerned, he was working as Selection Grade Senior Bailiff. The crucial date for fixing pay is 01.01.2006 and the pay scale of the petitioner's husband was Rs.9300 - 34800 + 5200 GP. The scale of pay of his next promotional post i.e., Assistant is Rs.5200 - 20200 + 2800 GP. The Government Order clearly states that if the revised Selection Grade / Special Grade scales of pay indicated in the Annexure-I happens to be higher than the first level / second level promotion posts, then in such cases only the revised Selection Grade / Special Grade scales of pay should be restricted to the level of their first level and second level promotional posts respectively. In the instant case, the Grade Pay has been restricted to Rs.2800/- because the first level promotional post is Assistant, which carries the Grade Pay of Rs.2800/- and the petitioner's husband being a Selection Grade Bailiff cannot be entitled to grade pay fixed for the first level promotional posts. Therefore, the impugned order is liable to be sustained and the Writ Petition is liable to be dismissed.

6. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (AE)

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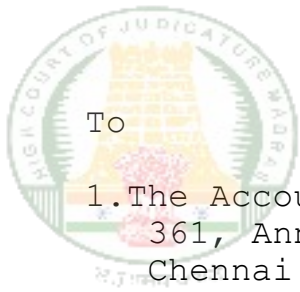
/ /2021

Sub Assistant Registrar(CS)

sj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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



To

1.The Accountant General (A & E),
361, Anna Salai,
Chennai - 600 018.

2.The Principal District Judge,
Sivagangai District,
Sivagangai.

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-15939[F] dated
16/04/2021)

W.P. (MD) No. 616 of 2021
15.04.2021

RK (28.04.2021) 4P 4C