



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2021

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD)No.1910 of 2013

and

W.M.P.(MD)Nos.2032 of 2016 and 17868 of 2017

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1.N.Ramadoss (Died)

2.Renugadevi

3.Shanthidevi

4.Balajikumar ... Petitioners

(The petitioners 2 to 4 are substituted vide
Court Order dated 20.04.2021 in WMP(MD)No. 3528
of 2021 in WP(MD)No.1910 of 2013)

vs.

1.The Secretary to Government,
Agricultural Department,
Fort St.George, Chennai - 9.

2.The Chief Engineer,
Agricultural Engineering Department,
Nandhanam, Chennai - 35.

3.The Superintending Engineer,
Agricultural Engineering Department,
T.P.K. Road, Madurai - 11.

4.The Executive Engineer,
Agricultural Engineering Department,
T.P.K. Road, Madurai - 11.

5.The Assistant Executive Engineer,
Tractor Workshop,
Agricultural Engineering College,
Madurai - 625 104.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the respondents to treat the petitioner as Grade I Selection Grade Machinist as on 01.10.1994 and to refix the first petitioner's salary and his pension and to pay him the arrears salary and the arrears of pension in accordance with the refixation.



For Petitioners : Mr.R.Murugappan
For Respondents : Mr.M.Linga Durai
Government Advocate

O R D E R

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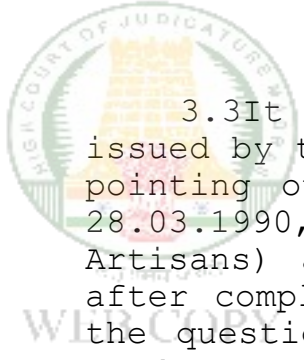
This Writ Petition is filed for issuance of a Writ of Mandamus, directing the respondents to treat the Writ petitioner as Grade I Selection Grade Machinist as on 01.10.1994 and to refix the petitioner's salary and his pension and pay him the arrears of his pension in accordance with such refixation.

2.Heard Mr.R.Murugappan, learned Counsel appearing for the petitioners and Mr.M.Linga Durai, learned Government Advocate appearing for the respondents.

3.Brief facts, that are necessary for the purpose of disposal of the Writ Petition are as follows:

3.1.The first petitioner was originally appointed as a Fitter in the Workshop of fifth respondent Office on 11.02.1970. The first petitioner was given promotion as Machinist on 16.07.1971. It is the case of the first petitioner that he was promoted as Grade I Machinist on 01.10.1986 and retired from service on 30.07.1997. The grievance of the first petitioner is that his retirement benefits were settled as if the first petitioner was holding the post of Grade II Machinist instead of Grade I Machinist. The first petitioner after being silent for about fourteen years, submitted a representation to the respondents on 20.12.2011. Stating that the representation of the first petitioner was not considered, the above Writ Petition is filed with the prayer for issuance of a Writ of Mandamus, directing the respondents to treat the first petitioner as Grade I Selection Grade Machinist and disburse the pension and retirement benefits. The first petitioner died during the pendency of Writ Petition and hence his legal representatives were impleaded to prosecute the petition.

3.2The respondents have filed a counter affidavit, specifically denying the allegations and averments made in the affidavit filed in support of the Writ Petition. It is contended by the respondents that there was no sanctioned post of Grade I Machinist as clarified in G.O.Ms.No.106, Finance Department, dated 18.02.1991. It is precisely stated that the scheme of advancement of special temporary post of Grade I was abolished in the 5th Pay Commission vide G.O.Ms.No.304, Finance Department, dated 28.03.1990. It is further clarified that as per Government Order, the employees are entitled to Selection of Grade II after completion of ten years and they are given Special Grade of Grade II, if they put in more than twenty years of service. Therefore, the person who is holding Machinist Grade II can only claim Selection Grade Pay after completion of ten years and Special Grade Pay after twenty years of service.



3.3It is to be noted that a letter, dated 25.10.1990, was issued by the Chief Engineer of Agricultural Engineering Department, pointing out that as per G.O.Ms.No.304, Finance Department, dated 28.03.1990, the employees in the respondent establishments (Workshop Artisans) are not entitled to claim revised Grade I Scale of Pay after completion of ten years and twenty years of service and that the question of automatic payment of Grade I scale of pay to the Grade II Workshop Artisans on completion of ten years stood cancelled. The statement found in the counter affidavit is in tune with the G.O.Ms.No.304, Finance Department, dated 28.03.1990. The relevant portion of G.O.Ms.No.304, Finance Department, dated 28.03.1990 reads as follows:

"4. Accordingly, in partial modification of the orders issued in paragraph 9 of the G.O. first read above, the Government direct that the scheme of selection grade and special grade be allowed to all the employees eligible for movement to selection grade and special grade as indicated in the Annexure-1 to this order replacing the existing Appendix-VII to the G.O. first read above:

Provided further, wherever the promotion post happens to be on a lower scale of pay than the selection grade scale of pay given in Annexure-I employees in such posts are eligible for the selection grade scale as applicable to promotion post only.

However, in respect of teachers the selection grade and special grade shall be as indicated in the Annexure-I to this order.

Employees in the erstwhile special temporary posts in the pre-revised pay structure shall be treated as holders of selection grade post in the revised pay structure.

5. Government have also decided to provide a scale of pay of Rs.1,400-50-2,300-60-2,600 for selection grade only for those who are on the ordinary grade of Rs.1,200-2,040. In respect of those categories of employees in the post on ordinary grade of pre-revised scales of pay of Rs.705-1,230 and Rs.780-1,385 and moved to selection grade scale of pay of Rs.905-1,545 prior to 27th June 1989 and placed on the revised ordinary grade scale of pay of Rs.1,200-2,040 shall be allowed starting pay at Rs.1,500 in the above revised selection grade scale of pay i.e., Rs.1,400-50-2,300-60-2,600. Similarly in respect of categories of employees in the posts on the ordinary grade of pre-revised scale of pay of Rs.780-1,385 and Rs.905-1,545 and moved to selection grade on Rs.1,400-2,600 shall be allowed starting pay at Rs.1,760 in the revised selection grade scale of pay of Rs.1,640-2,900

6. Government direct that while fixing the pay in the revised selection grade/special grade scales of pay indicated in Annexure-I to this order, the pay of an employee happens to get fixed lesser than that already



fixed as per the selection grade/special grade scales of pay ordered in the G.O. first read above, the pay of such employee shall be stepped up to the next higher stage, as a special case, so as to avoid monetary loss. Fitment tables and illustrations are given in Annexure-II and III respectively to this order. These fitment tables are in addition to those given in the G.O. second read above. Wherever appropriate fitment tables are not available pay shall be fixed as per the Tamil Nadu Revised Scales of Pay Rules, 1989.

7.The existing procedure for movement to selection/special grades and fixation of pay in these grades shall continue to be adopted in future with the scales of pay indicated in Annexure-I to this order. In the case of employees in posts not provided with selection/special grades in the pre-revised pay structure but drawn one stagnation increment on completion of 10 years of service in the ordinary/selection grade, the pay shall be fixed in the newly opened selection/special grade scales of pay at the same stage if the pay drawn by them is equal to the stage of at the next higher stage if there is no such stage.

8.These orders shall take effect from 1st June 1988 for those who have moved to selection grade/special grade prior to 27th June 1989. In the case of others these orders shall take effect from 27th June 1989. The arrears of pay and allowances consequent on these orders shall be regulated as per paragraph 8(vii) of the G.O. first read above.

9.Employees already in the selection grade/special grade prior to 27th June 1989, shall be permitted to exercise revised option to come over to the revised scales of pay if they so desire. The option shall be exercised on or before 30th June 1990. Option once exercised shall be final. If no option is exercised before the stipulated date the pay shall be fixed in the revised scales of pay of selection grade/special grade with effect from 1st June 1988.

10.Government also direct that the anomaly of junior drawing more pay than senior if any, arising out of these orders shall be set right by the appointing authorities concerned."

4.From the reading of Government Order, it is seen that the earlier scheme of upgrading the post from Grade II to Grade I was modified and that the scheme of selection Grade and Special Grade was allowed to all employees as indicated in Annexure-I. Annexure-I gives an indication that the employees are entitled to the higher pay shown in the Selection Grade and Special Grade respectively.



5.The first petitioner admitted that he retired from service on attaining superannuation on 30.07.1997. However, the first petitioner came up with a representation only on 20.12.2011. The first petitioner has come forward with a stale claim nearly eleven years after his retirement and filed the above Writ Petition in 2013. The Writ Petition is therefore, liable to be dismissed on the ground of delay and laches also. For the reasons stated above, this Court finds no merit in the Writ Petition and therefore, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tmg/mbi

To

- 1.The Secretary to Government,
Agricultural Department,
Fort St.George, Chennai - 9.
- 2.The Chief Engineer,
Agricultural Engineering Department,
Nandhanam, Chennai - 35.
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T.P.K. Road, Madurai - 11.
- 5.The Assistant Executive Engineer,
Tractor Workshop,
Agricultural Engineering College,
Madurai - 625 104.

+1 CC to M/s.SPL.GP (SR-32355[F] dated 25/10/2021)

W.P. (MD)No.1910 of 2013
21.10.2021

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KB(01.11.2021) 5P 7C