



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.12.2021

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THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P(MD)No.5328 of 2013
and M.P.(MD)No.2 of 2013

P.Alphonse

... Petitioner

Vs.

The Joint Director of Agriculture,
Department of Agriculture,
Nagercoil, Kanyakumari District.

... Respondent

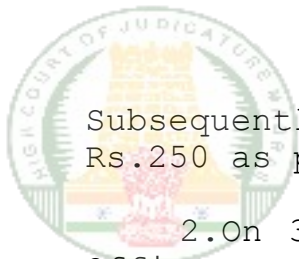
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned order passed by the first respondent in Letter No.Ne.2/10393/2011 dated 16.02.2012 and the consequential impugned order in Letter No.Ne.2/10393/2011 dated 10.05.2012, quash the same and consequently directing the respondent to refix the Grade Pay of the petitioner as Rs.4,700/- in the post of Assistant Agricultural Officer(Special Grade) with effect from 01.01.2006 sanction the same along with arrears of salary.

For Petitioner : Mr.S.Bharathy Kannan

For Respondent : Mr.J.K.Jayaselan,
Government Advocate

ORDER

The petitioner was appointed as Field Demonstration Officer in the year 1973 in the respondent department. On 12.09.1985, he was promoted as Assistant Agricultural Officer. After implementation of Fifth Pay Commission on 01.06.1988, his pay scale was revised and on 01.08.1982, his basic pay has been increased by 5% as personal pay. After completion of 10 years, the petitioner was awarded with selection grade in the post of Assistant Agricultural Officer on 12.09.1995 and his pay scale was revised. In pursuance of the Sixth Pay Commission, the petitioner's pay scale was revised as Rs.5000-150-8000-5150 in the year 1996. On 01.07.1998, his basic pay has been increased by 5% as personal pay. On 25.09.2005, the petitioner was awarded with Special Grade in the post of Assistant Agricultural Officer and his pay scale was revised as Rs.5500-175-9000.



Subsequently, his scale of pay was refixed as Rs.6725-75 along with Rs.250 as personal pay of 5%.

2. On 31.12.2007, the petitioner was promoted as Assistant Seed Officer and got pay of Rs.5000-150-8000 and he was awarded with selection grade in the post of Assistant Seed Officer with effect from 01.01.2008 and his pay scale was refixed as Rs.5500-175-9000 by applying Tamil Nadu Revised Scale of Pay Rules, 2009. On 30.04.2008, he was retired from service, after attaining superannuation as Assistant Seed Officer (Selection Grade).

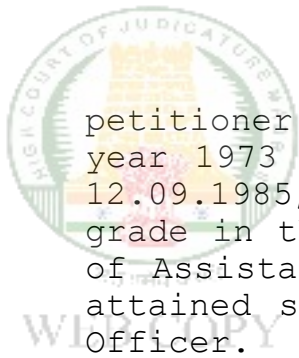
3. The petitioner is seeking for re-fixation of his grade pay as per G.O. (MS) No. 258, Finance (Pay Cell) Department, dated 26.08.2010. The respondent issued the impugned order stating that he is not entitled for the same, vide letter dated 16.02.2012 and consequential letter dated 10.05.2012.

4. The respondent filed counter stating that revised scale of pay would be applicable as stated in the paragraph Nos. 4(1) & 5 of G.O. (MS) No. 258, Finance (Pay Cell) Department, dated 26.08.2010. The selection grade and special grade fixation should not exceed that of promotional grade and based on this position, the petitioner is not entitled to.

5. Heard the learned counsel on either side.

6. The petitioner's claim is that he is entitled for grade pay of Rs.4500/- as per letter, dated 08.11.2010 in Annexure No. I, Serial No.10. The specific case of the petitioner is that the "Note" portion of the Annexure No. I states that the above selection grade/special grade as indicated above takes notional effect from 01.01.2006 with monetary benefit from 01.01.2007 and is applicable only to employees awarded selection grade / special grade prior to 01.01.2006 and employees who have opted for revised scale of pay on a subsequent date after 01.01.2006. Thereafter, the Government issued clarification on 07.12.2016 wherein the petitioner relies on clause No.3(2) of the clarification.

7. The petitioner states that the petitioner joined the service as Field Demonstration Officer in the year 1973. On 12.09.1985 he was promoted as Assistant Agricultural Officer, on 12.09.1995, after completion of 10 years was granted selection grade in the post of Assistant Agricultural Officer and on 25.09.2005, the petitioner was awarded with Special Grade in the post of Assistant Agricultural Officer. On 31.12.2007, the petitioner was promoted as Assistant Seed Officer and was awarded with selection grade in the post of Assistant Seed Officer with effect from 01.01.2008. It is unknown how the petitioner is entitled to selection grade in the post of "Assistant Seed Officer", when he has not completed 10 years in the post "Assistant Seed Officer". Moreover it is not known which 10 years period is included for granting the selection grade, since already the petitioner was granted selection grade and special grade in the post of "Assistant Agricultural Officer". It is seen the



petitioner joined the post of "Field Demonstration Officer" in the year 1973 and then promoted as "Assistant Agricultural Officer" on 12.09.1985, if this period is taken, then it ought to be selection grade in the post "Field Demonstration Officer" and not in the post of Assistant Seed Officer. It is seen on 30.04.2008 the petitioner attained superannuation and retired from service as Assistant Seed Officer.

8. Therefore, this Court directs the respondent to consider the case of the petitioner in the light of the letter, dated 07.12.2016 and also by taking note of ineligibility to grant selection grade in the post of "Assistant Seed Officer" and pass orders within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

gns

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.

To

The Joint Director of Agriculture,
Department of Agriculture,
Nagercoil, Kanyakumari District.

W.P (MD) No.5328 of 2013
23.12.2021

MGJ(20.01.2022) 3P 2C