



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:	22.02.2021
DELIVERED ON:	01.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) Nos.14661, 14663, 14664, 14666 & 14667 of 2020
(Through Video Conference)

R.Sankaran ... Petitioner in W.P.(MD) No.14661 of 2020
T.S.C.Thanukkodi ... Petitioner in W.P.(MD) No.14663 of 2020
D.Balasubramanian ... Petitioner in W.P.(MD) No.14664 of 2020
P.Kader Mohideen ... Petitioner in W.P.(MD) No.14666 of 2020
A.Alagu Ramalingam ... Petitioner in W.P.(MD) No.14667 of 2020

Vs.

1) The State of Tamil Nadu,
Rep. By its Secretary to Government,
Handloom, Handicrafts,
Textiles & Khadi Department,
Secretariat, Chennai 600 009

2) The Director of Sericulture,
Directorate,
Nethaji Nagar,
Hasthampatti, Salem - 7

... Respondents in all W.P.'s

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent pertaining to its order bearing Na.Ka.No.1689/Pa.Aa.4/2020-1, 2020-2, 2020-3, 2020-4 & 2020-7 respectively, dated 11.03.2020 and to quash the same and consequently direct the respondents to extend the benefits of the order of this Court dated 27.08.2019 in W.A.No.2782 of 2012 and grant all attendant service benefits to the petitioners, including the monetary benefits and pensionary benefits.

In all W.P.'s:

For Petitioner : Mr.S.Sivakumar

For Respondents : Mrs.V.P.M.Vaishnavi,
Government Advocate



C O M M O N O R D E R

Since the issue involved in all these writ petitions are one and the same, they are disposed of by this common order.

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2.1. All the petitioners herein had originally joined the Sericulture Department as Sericulture Demonstrators. In the year 1984, post of

Sericulture Demonstrator was merged with the post of Junior Inspector of Sericulture. It is the case of the petitioners that, since the posts of Sericulture Demonstrator and Junior Inspector of Sericulture were merged, the service in both the posts should be counted for the purpose of granting Senior Scale and Selection Scale. However, the respondents had extended the benefit only from the date of the petitioners' becoming Junior Inspector of Sericulture.

2.2. Learned counsel for the petitioners submitted that, similarly placed persons had earlier approached this Court and in a batch of appeals in W.A.Nos.2782 of 2012..etc., ***State of Tamil nadu Handlooms, Handicrafts, Textiles & Khadi Department vs. M.Anjappa***, the Hon'ble Division Bench had considered the benefits extended to similarly placed persons and held that the benefits of the Merger, ought to have been considered for the purpose of pay fixation and grant of Senior Grade and Selection Grade and thereby, extended the pensionary benefits prospectively.

2.3. One of the aggrieved Junior Inspector of Sericulture had challenged the action of the respondents and this Court, in its order dated 01.07.2008 passed in W.P.No.28492 of 2006, had allowed the writ petition. The Writ Appeal No.1398 of 2008, against this order, was also dismissed on 21.04.2009, by observing that the petitioners were entitled for the benefits, since similarly placed persons have also been extended the benefit.

2.4. When the petitioners had earlier given representations seeking for grant of Selection Grade in the post of Junior Inspectors by taking into account their total service from the petitioner's initial date of appointment as Sericulture Demonstrators, in the light of the orders passed in W.A.No.2782 of 2012.. etc (batch of cases), this Court had directed the concerned respondents to consider the representations within a stipulated period. However, through the impugned order dated 11.03.2020, the petitioners' claim was rejected on the ground that the order in W.A.No.2782 of 2012.. etc (batch of cases), would apply only to the petitioners therein and not to these petitioners and further reliance was placed on G.O.Ms.No.898 Personnel and Administrative Reforms Department (P. & A.R.) dated 23.09.1983 and thereby the



petitioners' request was denied.

3. The Hon'ble Division Bench in **M.Anjappa's case** (cited supra) had already addressed the issue involved in the present case and by taking into account all similarly placed persons, who were extended the benefit, the Hon'ble Division Bench had granted similar reliefs to the petitioners therein. The relevant portion of the order reads thus:-

"10.5. Yet another submission made by the learned Senior Counsel appearing for the respondents is that there should be an element of fairness insofar as the appellants are concerned. Now all the respondents have reached the age of superannuation. Therefore, this Court can exercise its discretion and mould the relief accordingly.

10.6. Any discretion is to be within the ambit of law. When law is pitted against the equity, it has to prevail. Though they can travel on the same channel, their waters do not mix. The learned Additional Advocate General would submit that any benefit given to the respondents would lead to a situation to extend the same to the similarly placed persons. We could understand the situation which the learned Additional Advocate General seeks to impress upon us. However, we find that similarly placed persons were given certain monetary benefits including higher pension. As the appellants are performing public functions and being public authorities, they must extend and exhibit the element of fairness while dealing with the employees working under them. They have also not made any attempt to rectify the error that has crept in the Court orders. As a model employer, the appellants are expected to conduct this with high probity and candour while dealing with these employees. We feel though the respondents are not entitled for any monetary benefit, a situation has been created, by which, similarly placed employees are receiving different pensions. One set of the employees, who got the orders are get higher pensions by counting their service erstwhile categories as against the respondents and others. Therefore, though we are not inclined to grant any monetary benefits, we feel that it would be appropriate to direct the appellants to revise the pension that is being received by the respondents on the same basis, in which, such of those retired employees who got favourable orders from the Court. In this connection, we would like to quote the following paragraph in the judgment of the Division Bench of this Court in *S.Valluvan Vs. Tamil Nadu Civil Supplies Corporation*



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((2013) 6 MLJ 753), in which, one of us (M.M.Sundresh, J.) is also a party.

"10. Fairness in Action: The matter can be looked at from a different angle as well. An employer is expected to act fairly. The state Government or its instrumentality will have to be a model employer, with high probity and candour to its employees. Considering the said principle, the Honourable Apex Court, in the recent pronouncement in **BHUPENDRA NATH HAZARIKA AND ANOTHER V. STATE OF ASSAM AND OTHERS (2013) 2 Supreme Court Cases, 516**, has observed as follows:

"61. Before parting with the case, we are compelled to reiterate the oft stated principle that the State is a model employer and it is required to act fairly giving due regard and respect to the rules framed by it. But in the present case, the State has atrophied the rules. Hence, the need for hammering the concept.

62. Almost a quarter century back, this Court in *Balram Gupta V. Union of India* had observed thus: (SCCP.236, para13) "

"13.... As a model employer the Government must conduct itself with high probity and condour with its employees."

In *State of Haryana V. Piara Singh* the Court had clearly stated: (SCC p.134, para 21)

"21....The main concern of the Court in such matters is to ensure the rule of law and to see that the Executive acts fairly and gives a fair deal to its employees consistent with the requirements of Articles 14 and 16.

11. Accordingly, the orders passed by the learned single Judges are set aside and the writ appeals are allowed in the following manner.

(i) The appellants are directed to revise the pension being received by the respondents applying the same yardstick followed in the case of similarly placed persons, who got favourable orders;

(ii) Appropriate orders will have to be passed within 12 weeks from the date of receipt of a copy of this order.

(iii) The respondents are entitled for revised pension only prospectively i.e., from the date of the orders passed by the appellants."

4. The aforesaid order is self-explanatory. The order of the Hon'ble Division Bench, had adopted a well laid down proposition that, when similarly placed employees in the same Department have



been extended with certain service or monetary benefits, the same would allure to the benefit of the other employees also. Such a proposition laid down was not restricted to those petitioners, who had approached the High Court. In other words, the order of the Hon'ble Division Bench was not an order *in personam* but an order *in rem*. Hence, the foundation for rejecting the petitioners' request, in the impugned order, cannot be sustained.

5. The respondents had also relied upon G.O.Ms.No.898 Personnel and Administrative Reforms Department (P. & A.R.) dated 23.09.1983, which deals with the amalgamation of Merger posts and stipulates that, a person working in a lower category would be entitled for Selection Grade, after completion of 10 years from the date of the Merger.

6. The Hon'ble Division Bench in **M.Anjappa's case** (cited supra) had also dealt with G.O.Ms.No.898 but, however, was of the view that since identically placed persons have already been extended certain benefits, the writ petitioners therein, would also be entitled to similar benefits.

7. Thus, there is no justification or legality on the part of the respondents in having rejected the petitioners' request and the impugned order cannot be sustained.

8. For all the foregoing reasons, the impugned order bearing Na.Ka.No.1689/Pa.Aa.4/2020-1, 2020-2, 2020-3, 2020-4 & 2020-7 respectively, dated 11.03.2020 stands quashed and consequently, there will be a direction to the respondents herein, to grant Selection Grade to the petitioners in the post of Junior Inspector of Sericulture, by taking into account the petitioners total service, from their initial date of appointment as Sericulture Demonstrators, with all consequential revisions and attendant service benefits, including the arrears of the pensionary benefits. The respondents shall disburse the aforesaid monetary benefits to the petitioners atleast, within a period of twelve weeks from the date of receipt of a copy of this order.

9. The writ petitions stand ordered accordingly. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(AS)

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/ /2021

Sub Assistant Registrar(CS)

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



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:

- 1) The Secretary to Government,
Handloom, Handicrafts,
Textiles & Khadi Department,
Secretariat, Chennai 600 009
- 2) The Director of Sericulture,
Directorate,
Nethaji Nagar,
Hasthampatti, Salem - 7

+5 CC to M/s.S.SIVAKUMAR, Advocate (SR-8100 TO 8104[F] dated 02/03/2021)

+1 CC to M/s.SPL GP (SR-8450[F] dated 03/03/2021)

Common Order made in
**W.P. (MD) Nos.14661, 14663,
14664, 14666 & 14667 of 2020**
Dated: 01.03.2021

VR(CO)
TR(10.03.2021) 6P 9C