



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2021

CORAM

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

W.P.(MD)No.1843 of 2016

and

W.M.P.(MD)No.1593 of 2016

WEB COPY

C.Jai Ganesh

... Petitioner

vs.

1.The Principal Secretary to Government,
Financial Department,
Secretariat,
Fort St.George, Chennai-9.

2.The Principal Secretary to Government,
Environment and Forest Department,
Secretariat,
Fort St.George, Chennai-9.

3.The Managing Director,
Arasu Rubber Corporation Limited,
Registered Office,
Vadachery,
Nagercoil, Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent in the proceedings Letter No.18545/FR.8/2015-2, dated 20.11.2015, and to quash the same and consequently to direct the second respondent to approve the revised scale of pay which is payable to the petitioner by the third respondent.

For Petitioner : Mr.C.Susikumar
for M.Subash Babu

For Respondents : Mr.D.Sachi Kumar
Additional Government Pleader

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed in Letter No.18545/FR.8/2015-2, dated 20.11.2015 and consequently to direct the second respondent to approve the revised scale of pay.

<https://hcservices.ecourts.gov.in/hcservices/> 2. The petitioner was working in the third respondent



Corporation in the ordinary Grade with a pay scale of Rs.5,200-20,200+G.P.Rs.2,800/- in the post of Pharmacist and has completed seven years of service. As per G.O.Ms.No.296, Finance (P.C) Department, dated 26.08.2010, the pay of the Pharmacist has been revised to Rs.9,300-34,800+G.P.Rs.4,200/-. The 3rd respondent has implemented / approved the said G.O. in the 107th meeting held on 14.09.2009. The Government again issued another G.O.No.254 to 340, Finance (P.C) Department, dated 26.08.2010 and the third respondent was directed to approve the recommendations of the One Man Commission in respect of the employees and send the recommendation to Government for approval.

3. Based on this, the third respondent has submitted a requisition letter, dated 05.06.2015, for approval and the second respondent approved and paid the salary only to five Pharmacists and the petitioner alone was left out. The reason stated is extracted below:

"Presently 6 Pharmacists are working in the Arasu Rubber Corporation Limited. Out of these 5 of them are in Special Grade and they are already in the scale of pay of Rs.9,300-34,800+G.P.Rs.4,300/-. Only one Pharmacist Thiru.C.Jaiganesh is in the ordinary Grade and drawing the scale of pay of Rs.5,200-20,200+G.P.Rs.2,800/-. he is also a Registered Pharmacist of the Tamil Nadu Pharmacy Council, Chennai and renewed the registration upto 08.02.2016. A copy of his Pharmacist Registration Certificate is enclosed. He is now drawing the basic pay of Rs.10,960/- and G.P.Rs.2,800/-. Presently he is drawing more basic pay than the minimum basic in the revised scale. So there will be revision only in the Grade Pay. Hence the monthly financial implication if the scale of pay is changed to Rs.9,300-34,800+G.P.Rs.4,200/- will be Rs.4,047/-. This financial implementation is very less and the Corporation can bear it.

Hence we propose that the revision of the pay may be given notional effect from 01.01.2006 for the purpose of fixation of pay in the revised scales of pay with monetary benefit from 01.08.2010 as given in the G.O.Ms.No.296, Finance (Pay Cell) Department, dated 26.08.2010."

4. The petitioner is drawing Rs.5,200-20,200+G.P.Rs.2,800/- but, the other five persons are drawing Rs.9,300-34,800+G.P.Rs.4,200/-. Therefore, the petitioner was left out. The petitioner relied on G.O.Ms.No.200, dated 10.07.2015 to claim the benefits. But, the respondents rejected the same, vide order,



dated 20.11.2015. Again, the third respondent has submitted a recommendation, dated 27.11.2015. The petitioner has challenged the rejection order passed by the Government, dated 20.11.2015 in this Writ Petition. The respondents have not filed counter affidavit.

5. Heard, Mr.C.Susikumar, learned Counsel appearing for the petitioner and Mr.D.Sachi Kumar, learned Additional Government Pleader appearing for the respondents.

6. It is seen that the petitioner is receiving a salary of Rs.5,200-20,200+G.P.Rs.2,800/- and the other persons are receiving Rs.9,300-34,800+G.P.Rs.4,200/-. But, the respondents have not clarified why the petitioner alone is receiving Rs.5,200-20,200+G.P. Rs.2,800/-, when all the six persons were recommended by the third respondent. The respondents have stated that "presently the petitioner is drawing more basic pay than the minimum basic in the revised scale", if so, the same ought to be brought on par with others and then ought to consider the petitioner for revision of scale on par with others. Rejecting the claim of the petitioner alone is against Article 14 of the Indian Constitution. In fact, the third respondent has recommended to grant Rs.9,300-34,800+G.P.Rs.4,200/- to the petitioner also and in fact the Government has constituted "One Man Commission" and has resolved the issue.

7. Therefore, this Court is setting aside the impugned order, dated 20.11.2015. If need be "the present drawing of more basic pay than the minimum basic may be brought on par with the other five persons" and thereafter the respondents are directed to consider the recommendation, dated 27.11.2015, in the light of G.O.Ms.No.200, dated 10.07.2015 and in the light of the relief granted to the other five persons. The above direction shall be complied within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)



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 Principal Secretary to Government,
Financial Department,
Secretariat,
Fort St.George, Chennai-9.

2.The Principal Secretary to Government,
Environment and Forest Department,
Secretariat,
Fort St.George, Chennai-9.

3.The Managing Director,
Arasu Rubber Corporation Limited,
Registered Office,
Vadachery,
Nagercoil, Kanyakumari District.

+1 CC to M/s.M.SUBASH BABU, Advocate (SR-38280[F] dated 10/12/2021)

+1 CC to M/s.SPL GP (SR-37934[F] dated 09/12/2021)

W.P. (MD) No.1843 of 2016
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