



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.02.2021**

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

W.P. (MD) No. 6594 of 2016

P.Theethapillai

... Petitioner

Vs.

The Director,
Gandhigram Institute of
Rural Health and Family Welfare Trust,
Ambathurai, R.S.(Post),
Dindigul District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondent to pay the arrears of salary to the petitioner from 01.04.1993 in the scale of pay of Rs.750/- per month vide his proceedings in PROC. No.GIRH/Estt/93-94/3069 dated 24.12.1993 with all the service benefits, increments with interest of 12% till the date of final payment.

For Petitioner : Mr.B.N.Rajamohamed

For Respondent : Mr.V.Karthikeyan

O R D E R

This writ petition has been filed for a direction to the respondent to pay the arrears of salary to the petitioner from 01.04.1993 in the scale of pay of Rs.750/- per month vide his proceedings in PROC.No. GIRH/Estt/93-94/3069 dated 24.12.1993 with all the service benefits, increments with interest of 12% till the date of final payment.

2. The case of the petitioner is that subsequent to the basic appointment as temporary Domestic Staff in the year 1971 on consolidated pay of Rs.395/- per month, the petitioner was appointed temporarily as peon in the year 1988 and after completion of his probation, his pay was fixed at Rs.450/- per month in the scale of pay of Rs.450-10-570-15-720, with all allowances and thereafter, as per G.O.Ms.No.867 dated 11.08.1989, the scale of pay to the post of



Peon was revised to Rs.750-12-870-15-945 with effect from 01.06.1988. Subsequently, the petitioner was terminated from the service of Peon and reverted to the old position of temporary Domestic Staff with effect from 01.04.1993 by stripping of all allowance vide proceedings, dated 31.03.1993 and thereafter, the petitioner was transferred and appointed as Peon, temporarily, from the post of Domestic Staff in the scale of pay of Rs.750-12-870-15-945 vide proceedings, dated 24.12.1993 and his basic pay was fixed at Rs.810/- per month. Subsequently the petitioner's service was reverted back to the Domestic Staff with effect from 01.04.1994 on a consolidated pay of Rs.750/- per month, without any allowances, vide proceedings, dated 19.08.1994. Challenging the said order dated 19.08.1994, the petitioner filed O.S.No.1371/1994 before the learned Principal District Judge, Dindigul, seeking the relief of declaring the above impugned order of the respondent dated 19.08.1994 as null and void and a consequential relief directing the respondent to pay the salary as per the scale of pay as declared vide proceedings, dated 24.12.1993. The Court below has partly allowed the suit by declaring the above order dated 19.08.1994 is null and void vide judgment and decree dated 29.11.1996. Thereafter, the petitioner made representations to restore his earlier scale of pay of Rs.750-12-870-15-945. But till date, the respondent has not considered the said representations of the petitioner. Hence, the petitioner approached this Court with the above said prayer.

3. The learned counsel for the petitioner would submit that though the prayer sought for in this petition is larger in nature, the petitioner would confine his prayer for a direction to the respondent to consider the representation of the petitioner and pass appropriate orders within a reasonable time as fixed by this Court.

4. Though no counter is filed till date, the learned counsel appearing for the respondent produced a proceedings of the respondent dated 25.11.1997 and subsequent proceedings, dated 26.08.2002 through which the respondent rejected the request of the petitioner to pay the backwages from 01.05.1994 to 19.06.1997. He further submitted that without challenging the said orders, filing this writ petition is not maintainable. Hence, he prays for dismissal of this writ petition.

5. Heard the submissions made on either side and perused the materials available on record.

6. Considering the facts and circumstances of the case, this Court comes to a conclusion that if at all the petitioner aggrieved, the petitioner has to challenge the said proceedings of the respondent dated 25.11.1997 and 26.08.2002, and without challenging the above said proceedings, filing this writ petition is not maintainable. Hence, this writ petition deserves to be dismissed.



7. Accordingly, this Writ Petition stands dismissed. No costs. However, liberty is given to the petitioner to work out his remedy in the manner known to law.

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Sd/-

Assistant Registrar (CS-II)

/ /2021

Sub Assistant Registrar

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.

+1 CC to M/s.V.KARTHIKEYAN, Advocate (SR-7038[F] dated 24/02/2021)

W.P. (MD)No.6594 of 2016
22.02.2021

PJL
MS/16.03.2021/3P.2C