



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
AND
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.A.NO.1639 OF 2015

1. The State of Tamil Nadu,
Rep., by its Principal Secretary
to Government,
Finance (Pay Cell) Department,
Secretariat, Chennai - 600 009.

2. The Pay and Accounts Officer,
Secretariat,
Chennai - 600 009.

... Appellants

.Vs.

R.Murugesan

... Respondent

PRAYER:-

Writ Appeal filed under Clause 15 of Letters Patent, praying to dismiss the order dated 11.06.2015 made in W.P.No.5192 of 2015 passed by this Court and set aside the same.

PRAYER IN W.P.NO.5192 OF 2015:-

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for records relating the 1st respondents Government Letter No.63305/Pay Cell/2010-1 dated 08.11.2010 to quash paragraph-5 therein in so far as it restricts the re-fixation of the pay to the level of first/second level promotion posts only and to consequently direct the respondents to extend appropriate revised scales of pay of Selection Grade/Special Grade Driver to the petitioner forthwith on the basis of the VI Pay Scale Recommendations (Revised Pay Rules) as ordered in G.O.Ms.No.162 Finance (Pay Cell Department) dated 13.04.1998 and other benefits thereto and to pass such other further or other orders.



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For Appellants : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

For Respondent : Mr.P.Chandrasekar

J U D G M E N T

(Judgment was delivered by J.SATHYA NARAYANA PRASAD, J.)

This Writ Appeal is directed against the order passed by the learned Single Judge in W.P.No.5192 of 2015 dated 11.06.2015, allowing the said Writ Petition.

2. Heard Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader appearing for the appellants and Mr.P.Chandrasekar, learned counsel for the respondent.

3. The brief facts of the case are as follows:

(i) The respondent was working as a Motor Cycle Messenger in Secretariat, Chennai at Finance (PC) Department from the year 1989. From the date of appointment, the respondent had been discharging his duties as Motor Cycle Messenger and there were no promotional avenues open to the respondent and others, who had been working in the same cadre in various Departments of the Government, therefore, all of them continued to work as drivers for decades, thereby entailing them for the grant of Selection Grade on completion of 10 years and Special Grade on completion of 20 years of service.

(ii) The Government Drivers Association, in which the respondent was also a member, took up the issue with regard to the grant of better scales of pay, as there were no promotional avenues for the drivers and the same was placed before a Committee and the said Committee was called as "Official Committee", which submitted a report and thereby G.O.Ms.No.162 Finance (Pay Cell) Department dated 13.04.1998 came to be issued on the basis of the aforesaid Committee's report. As per the said Government order, Selection Grade and Special Grade have been revised based on the existing pay scales as per Schedule-II and further the same shall be regulated as follows:-

(a) For the post having no promotional avenue, Selection Grade and Special Grade shall be allowed as indicated in the schedule-II.



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(b) For the post having the promotional post, the Selection Grade should be limited to the pay scales of the first level promotion post and Special Grade shall be limited to the pay scales of second level promotional post.

4. Taking into account the order in letter and spirit and the pay revision/fixation as prescribed in the Government order, most of the Heads of the Departments have extended the benefits of Selection/Special Grade to the Drivers' category, which had no promotional avenue/promotional post at all, as it can be well said "Once a Driver is Always a Driver".

5. The action of the appellants in not granting selection grade/special grade as in the revised Pay Rules on the basis of the recommendation made by the "Official Committee" in G.O.Ms.No.162, Finance (Pay Cell) Department dated 13.04.1998 and in issuing clarifications on misconception, in letter No.63305/Pay Cell/2010-11 dated 08.11.2010 and more particularly, paragraph 5 therein, which restricted the re-fixation of the pay to the first and second level promotion posts, are against law.

6. Thereafter, the respondent filed the subject matter Writ Petition No.5192 of 2015 challenging the above Government letter No.63305/Pay Cell/2010-11 dated 08.11.2010 and the learned Single Judge, while allowing the Writ Petition vide order dated 11.06.2015, held that the respondent herein is entitled to the re-fixation of pay scale of Rs.5000-150-8000 from the date of his movement to the selection grade and in the pay scale of Rs.5500-175-9000, from the date of his movement to the special grade, as ordered by a Hon'ble Division Bench of this Court, since, the respondent was also a similarly placed person as that of the petitioners in W.P.No.2363 of 2013. Aggrieved over the same, the appellants have filed the present Writ Appeal challenging the above order passed by the learned Single Judge.

7. The issue involved in the present case is covered by the decision of the Apex Court in Civil Appeal Nos.9533-9537 of 2019 [P.Singaravelan & Ors. etc Vs. The District Collector, Tiruppur and DT & Ors. Etc]. For better appreciation, the relevant paragraphs from Civil Appeals @ SLPs [Dairy No.42301 of 2017] are extracted below:

"2. These appeals have been filed by the State of Tamil Nadu, represented by its Principal Secretary,



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Finance (Pay Cell) Department against the judgment and order dated 05.01.2015 of this High Court of Madras in W.P.No.2363 of 2013, and the final judgment and order dated 11.09.2017 dismissing Review Application No.153 of 2016 against the same, with respect to the pay scale entitlements of certain drivers employed by the High Court of Madras in terms of G.O.Ms.No.162.

3. These appeals arise out of virtually the same factual background as those disposed of above. W.P.No.2363 of 2013 was filed by the concerned drivers employed with the High Court of Madras, seeking quashing of paragraph 5 of Letter No.63305/Pay Cell/2010-1 dated 08.11.2010 issued by the State Government on which basis the Government had denied the benefit of Selection and Special Grade pay scales as per Serial No.8 of Schedule II of the 1998 Rules under G.O.Ms.No.162. The petitioners therein also sought a direction to the State Government for appropriate fixation of pay scales in the above terms.

4. The Division Bench allowed the writ petition on the ground that the drivers were not entitled to any promotional avenues, and hence were entitled to the full benefits of the appropriate pay scale under Schedule II of the 1998 Rules. It was further found that the drivers were entitled to benefits under Serial No.8 of the said schedule, looking to the disposal of similar matters by the High Court and this Court. The review application filed against the same also came to be dismissed by the high Court.

5. As discussed supra, it has not been disputed before us that the drivers concerned were not entitled to any promotional avenues. Thus, it is evident that the High Court rightly concluded that the drivers were entitled to the full benefits of the appropriate pay scale under Schedule II of the 1998 Rules. However, in light of our foregoing finding that persons employed in the post of drivers in various departments in the Government of Tamil Nadu are only entitled to Ordinary, Selection and Special Grade pay scales in terms of Serial No.6 of Schedule II of the 1998 Rules, i.e. at Rs.3200-4900, Rs.4000-6000 and Rs.4300-6000 respectively, we have no hesitation to hold that the High Court erred in directing fixation of such



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pay scales to drivers employed at the High Court in terms of Serial No.8 of the Schedule II, fixing Selection Grade and Special Grade scales of pay of Rs.5000-8000 and Rs.5500-9000 respectively.

6. The appeals are therefore allowed partly, to the extent that the State Government is directed to fix the pay scale benefits available to the Respondents in the instant appeals in terms of Serial No.6 of Schedule II of the 1998 Rules under G.O.Ms.No.162"

8. Following the ratio laid down by the Apex Court in the above said judgment, a Division Bench of this Court allowed the Review Applications and dismissed the Writ Petitions and Writ Appeals subject to the observations made in paragraph No.16 of the order dated 15.04.2011. Subsequently, this Court dismissed the Writ Appeal Nos.745 to 747 of 2017 as infructuous based on the statement made by the learned counsel for the appellants in view of the order dated 15.04.2021 passed in the Review Application Nos.121 to 129 of 2017.

9. In view of the judgment passed by the Apex Court in Civil Appeal Nos.9533-9537 of 2019 [Civil Appeals @ SLPs [Dairy No.42301 of 2017]], the order passed by the Division Bench of this Court in Review Application No.120 to 129 of 2017 dated 15.04.2002 and the common judgment passed by this Court in Writ Appeal Nos.745 to 747 of 2017 dated 07.12.2021, the Writ Appeal is liable to be allowed. Accordingly, the Writ Appeal is allowed and the order passed by the learned Single Judge in W.P.No.5192 of 2015 dated 11.06.2015 is set aside. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Finance (Pay Cell) Department,
Secretariat,
Chennai - 600 009.



2. The Pay and Accounts Officer,
Secretariat,
Chennai - 600 009.

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+1cc to Mr.P.Chandrasekar, Advocate, S.R.No.6389
+1cc to the Government Pleader, S.R.No.6470

W.A.NO.1639 OF 2015

SMI (CO)
PBS/02/03/2022