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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.1494 of 2022

The Tamil Nadu Judicial Department
Retired Junior Bailiffs' Association
Rep. by its President A. Perumal
No.136, Thirukovilur Main Road,
Thogaipadi Kondangi Post,
Villupuram Taluk 605 301.

.. Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Home Courts (V) Department
Fort St. George, Secretariat
Chennai - 600 009.
2. The State of Tamil Nadu
Rep. by its Secretary to Finance
(Pay Cell Department)
Fort St. George, Secretariat
Chennai - 600 009.
3. The Principal Accountant General
Accounts and Entitlement
Tamil Nadu, Chennai 600 018.
4. The Registrar General
High Court, Chennai - 600 104.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus directing the first respondent herein to consider the representation of the petitioner dated 17.11.2021 and fix the selection grade/special



grade of pay of the members of the petitioner association as per the Government Order in G.O.Ms.No.114 dated 06.05.2014.

For the Petitioner : Ms.A.L.Ganthimathi

For the Respondents : Mr.P.Muthukumar
Government Pleader
for Respondents 1 and 2

Mr.J.V.Krishnamachari
for Respondent 3

Mr.V.Vijayshankar
for Respondent 4

ORDER

(Order of the Court was made by
the Hon'ble Acting Chief Justice)

The writ petition has been filed by an Association for a direction to the first respondent to consider its representation dated 17.11.2021 for fixing Selection Grade/Special Grade pay to the Members of its Association, holding the post of Junior Bailiff, pursuant to G.O.Ms.No.114 dated 06.05.2014.

2. Learned counsel for the petitioner association submits that as per the G.O. dated 06.05.2014, Junior Bailiffs are entitled to Selection Grade/Special Grade of Pay on completion of 10 years/20 years of service. Despite completion of ten years of service, the members of the petitioner association have not been extended the benefit of Selection Grade/Special Grade Pay of Rs.4200/-, as per the G.O. dated 06.05.2014. In view of the above, to espouse the cause of Junior Bailiffs, a direction is sought for the grant of Selection Grade/Special Grade pay in the Grade Pay of Rs.4,200/-.

3. The writ petition has been contested by learned counsel for the respondents. It is submitted that a Junior Bailiff completing ten years of service is entitled to the benefit of Selection Grade, pursuant to the G.O. dated 06.05.2014. But, as and when the Selection Grade Pay is found to be more than the scale of pay of the promotional post, then it is to be restricted to the scale of pay in the promotional post, as per the G.O.



4. Learned counsel for the fourth respondent submits that the members of the petitioner association, working as Junior Bailiffs and completed ten years of service, have been extended the Grade Pay of the promotional post and it has not been granted to few Members for want of completion of ten years at the time of filing of the writ petition, which would be extended to them as per the G.O.

5. A reference to the judgment of this Court dated 11.02.2021 in the case N.Ramakrishnan v. The Member Secretary (FAC) / District Judge, Tamil Nadu State Legal Services Authority [W.A.No.312 of 2020] has been made, where the identical issue was considered in reference to the G.O. restricting the benefit of Selection Grade/Special Grade pay to the scale of pay of the promotional post, in case it is higher than the scale of pay in the promotional post. Thus, the prayer is to dispose of the writ petition, in the light of the aforesaid submission.

6. At this stage, learned counsel for the petitioner association submits that there exists no avenue of promotion for the Junior Bailiffs and therefore, they are entitled to the benefit of Grade Pay of Rs.4200/- pursuant to the G.O. dated 06.05.2014. The statement aforesaid has been contested by learned counsel for the fourth respondent by referring to the Rule providing promotion avenue to Junior Bailiff to the post of Senior Bailiff and further to the post of Junior Assistant.

7. Learned counsel for the petitioner association submits that the avenue of promotion is available only to those who possess the required qualification and not for others. There are few members of the petitioner association who are not in possession of the required qualification for promotion. The argument for the grant of benefit of the Selection Grade/Special Grade Pay, pursuant to the G.O. dated 06.05.2014, cannot be accepted for those not in possession of the qualification. Otherwise, the benefit of Selection Grade Pay to the Junior Bailiffs, having qualification for the promotion to the post of Senior Bailiff, would be restricted to the scale of pay in the promotional post, while unqualified would be extended the benefit of higher Grade Pay. That is not permissible as it would offend Articles 14 and 16 of the Constitution of India. Accordingly, we find substance in the argument of learned counsel for the fourth respondent, supported with the judgment of this Court cited above.

8. In view of the above, the writ petition is disposed of in the following terms:

(i) Junior Bailiffs, on completion of ten years of service, would be entitled to the benefit of Selection Grade Pay on par



with the Grade Pay of the promotional post, subject to the other conditions to be fulfilled for the grant of the benefit;

(ii) Junior Bailiffs would not be entitled to the Grade Pay of Rs.4200/-, referred to in G.O. dated 06.05.2014 in view of the other G.O. which restricts the benefit of Selection Grade/Special Grade Pay to the Grade Pay of the promotional post in case it is higher than the pay grade of promotional post and, accordingly, the members of the petitioner association would not be entitled to Grade Pay of Rs.4200/- as claimed by them; and

(iii) The respondents are directed to find out as to whether the benefit of Selection Grade Pay, as directed by this Court, has been extended to the Junior Bailiffs, who have completed ten years of service or not. If it has already been extended to all those who are entitled to it, no further exercise would be required. But, in case, some members are deprived, the respondents would extend the due benefit, as admissible, subject to the condition and otherwise clarified by this Court in this order.

There will be no order as to costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

kpl/drm

To:

1. The Secretary to Government
Home Courts (V) Department
Fort St. George, Secretariat
Chennai - 600 009.
2. The Secretary to Finance (Pay Cell Department)
Fort St. George, Secretariat
Chennai - 600 009.
3. The Principal Accountant General
Accounts and Entitlement
Tamil Nadu,
Chennai 600 018.



4. The Registrar General
High Court, Chennai - 600 104.

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+1cc to M/s.AL.Ganthimathi, Advocate, S.R.No.8917

W.P.No.1494 of 2022

SSI (CO)
SU(17/02/2022)