



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.9043 of 2011

1.M.Shanmugasundaram
2.M.Ilancheran
3.R.Ramesh
4.S.K.Kannan
5.C.Ulaganathan
6.G.R.Arulmozhi
7.P.Prasath
8.R.Santhanakrishnan
9.A.Saravanan
10.V.Venkatesan
11.S.Sadaiyappan
12.S.Sankarajothi
13.S.Ezhisai Selvi
14.V.Selvaraj
15.G.Sivarani

...Petitioners

-Vs-

1.The Government of Tamilnadu,
Represented by its Secretary,
Finance Department,
Fort St. George, Chennai - 600 009.

2.The Director of Rural Development &
Panchayat Raj Department,
Panagal Building, Saidapet,
Chennai - 600 015.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the issue of G.O.Ms.No.451, Finance (Pay Cell) Department dated 31.12.2010 by the 1st respondent, quash the same insofar as not giving effect to the monetary benefit of arrears pursuant to the enhanced pay scales ordered therein with effect from 01.08.2010 for Assistant Engineers, Assistant Executive Engineers and Executive Engineers of Tamil Nadu Rural Development and Panchayat Raj Department and



consequently to direct the respondent to pay the arrears of pay pursuant to the revised pay scales ordered in the impugned G.O. with effect from 01.08.2010 till date along with appropriate interest as may be fixed by this Court from 01.09.2010 till the date of payment of the said arrears.

For Petitioners : Mr.N.Subramaniyan

For Respondents : Mr.E.Veda Bagath Singh,
Special Government Pleader

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. After rectifying the anomalies in the pay scales of Engineers, the pay scales were fixed with effect from 01.08.2010 for all the Engineers, including the Engineers in Public Works Department. However, insofar as the petitioners herein, who are the Engineers under Rural Development Department, are concerned, the pay scales were fixed only with effect from 01.12.2010, through the impugned order in G.O.Ms.No.451, Finance Department, dated 31.12.2010. Such anomaly in fixation between the Public Works Department Engineers and Engineers like the petitioners herein, came up for consideration before the Hon'ble Supreme Court in the case of Haryana State Minor Irrigation Tubewells Corporation and others G.S.Uppal and others reported in (2008) 7 SCC 375, whereby, it was held that, when an anomaly in the pay scale of the Government Engineers are rectified, the same applies to the Corporation Engineers in order to maintain the parity. The relevant portion of the order reads as follows:-

"32. When, after a pay revision, an anomaly is found in the pay scale given to a class of government servants and such anomaly is rectified, it is not a new pay revision but a correction of the original pay revision, or an amendment to the pay scale that has already been granted. Therefore, where the pay revision extended to the government servants has already been extended to the employees of the Corporation also, it follows that any correction of anomaly in the revised pay scale given to the government servants should also be made in the case of those who were earlier given parity by extending the pay scale which



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is the subject-matter of the correction. It should be borne in mind that the question whether Corporation Engineers were on a par with PWD Engineers and should be given parity in pay scales was already decided when the pay scale revision granted to Government (PWD) Engineers was extended to the Corporation Engineers also with effect from 1-1-1986. That question did not gain arise when the anomaly in the pay revision was rectified with reference to the Government Engineers. When the the anomaly in the pay scale of Government Engineers was rectified, the rectification should apply to Corporation Engineers also to maintain the parity.

33. The plea of the appellants that the Corporation is running under losses and it cannot meet the financial burden on account of revision of scales of pay has been rejected by the High Court and, in our view, rightly so. Whatever may be the factual position, there appears to be no basis for the action of the appellants in denying the claim of revision of pay scales to the respondents. If the Government feels that the Corporation is running into losses, measures of economy, avoidance of frequent writing off of dues, reduction of posts or repatriating deputationists may provide the possible solution to the problem. Be that as it may, such a contention may not be available to the appellants in the light of the principle enunciated by this Court in *M.M.R. Khan v. Union of India* and *Indian Overseas Bank v. Staff Canteen Workers' Union*. However, so long as the posts do exist and are manned, there appears to be no justification for granting the respondents a scale of pay lower than sanctioned for those employees who are brought on deputation. In fact, the sequence of events discussed above clearly shows that the employees of the Corporation have been treated on a par with those in Government at the time of revision of scales of pay on every occasion."



3. The aforesaid extract is self explanatory. Since the pay scales of the Public Works Department Engineers have been rectified with effect from 01.08.2010, there is no justification on the part of the first respondent in having fixed the pay scales of these petitioners with effect from 01.12.2010.

4. In the light of the above observation, the impugned order passed by the first respondent dated 31.12.2010 is quashed, insofar as it fixes the pay scales with effect from 01.12.2010 is concerned. Consequently, there shall be a direction to the first respondent to pass appropriate orders, fixing the enhanced pay scales for the petitioners herein with effect from 01.08.2010 and accordingly, disburse the arrears of pay, pursuant to the revised pay scales. The first respondent shall pass such orders within a period of 3 months from the date of receipt of a copy of this order. The Writ Petition stands allowed, accordingly. No costs.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

hvk

To

1.The Secretary,
Finance Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.

2.The Director of Rural Development &
Panchayat Raj Department,
Panagal Building, Saidapet,
Chennai - 600 015.

+lcc to Mr.N.Subramaniyan, Advocate SR.No.17607

+lcc to the Government Pleader, SR.No.18581

W.P.No.9043 of 2011

SPD(CO)

CB(31/03/2022)