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W.P.No.4922 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.4922 of 2015
and M.P.No.1 of 2015

- 1.K.P.Alisodai, Typist
- 2.N.Athmaram, Superintendent
- 3.R.Jaya, Superintendent
- 4.Sundar, Assistant
- 5.V.Ekambaram, Typist
- 6.S.Kulandaisamy, Superintendent
- 7.U.Rajasekar, Superintendent
- 8.N.M.Selvaraj, Assistant
- 9.S.Chandramoorthy, Superintendent
- 10.G.Jayachitra, Assistant
- 11.S.Ranganayaki, Superintendent
- 12.R.Shanthi, Assistant
- 13.A.Vijitha Rajam, Assistant
- 14.A.Somasundaram, Assistant
- 15.S.Selvi, Assistant
- 16.S.Royappan, Record Assistant
- 17.R.Ravikumar, Record Clerk
- 18.R.Devi, Assistant
- 19.P.Baby Kanchana, Record Clerk
- 20.T.Pappiammal, Assistant
- 21.R.Muthy, Junior Assistant
- 22.D.Praveen Kumar, Junior Assistant
- 23.G.Rajeswari, Typist
- 24.S.Theerthagiri, Assistant
- 25.V.Yuvaraj, Junior Assistant



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- 26.J.Rajamani, Office Assistant
- 27.M.Kumaran, Junior Assistant
- 28.G.Kannan, Junior Assistant
- 29.S.Mallika, Office Assistant
- 30.A.Pavaikarasi, Assistant
- 31.G.Mageswari, Typist
- 32.S.Kalaimaga, Steno Typist
- 33.Mohana, Office Assistant
- 34.M.Kavitha, Office Assistant
- 35.K.Chandra, Office Assistant
- 36.T.Nagarajan, Typist
- 37.K.Govindammal, Office Assistant
- 38.N.Balakumar, Assistant
- 39.J.Jeevabalan, Junior Assistant
- 40.M.Renugadevi, Steno Typist
- 41.V.B.Vasu, Superintendent
- 42.M.Chezhiyan, Assistant
- 43.R.Balasubramanian, Superintendent
- 44.P.Illamathi, Office Assistant
- 45.A.Saleem, Assistant
- 46.M.Balu , Superintendent
- 47.N.Kalaiselvi, Junior Assistant

All petitioners herein are serving in the
Directorate of Vigilance & Anti Corruption Department
Chennai.

...Petitioners

Vs

- 1.The Principal Secretary to Government
Home (Police II) Department
Fort St.George, Chennai – 9.
- 2.The Principal Secretary to Government
Personnel & Administrative Reforms (N) Department
Fort St.George, Chennai – 9.



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3.The Director
Vigilance & Anti-corruption
Adyar, Chennai.

.....Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent in connection with the impugned order passed by him in Letter No.11502/N/2012-2 dated 15.10.2012 and quash the same and direct the respondents to sanction special pay to the Ministerial Staff serving in the 3rd respondent department and further direct the respondents to draw and disburse the same within a reasonable time and grant such other further relief as this Court may deem fit in the circumstances arising out of the case.

For Petitioners : Mr.K.Venkatramani
Senior Counsel
for Mr.M.Muthappan

For Respondents : Mr.A.Selvendran
Special Government Pleader for RR1 to 3

ORDER

Through G.O.(Ms) No.42 [Personnel and Administrative Reforms (N) Department] dated 09.03.2012, the Government had sanctioned 15% Special Pay to certain categories of staff in the Directorate of Vigilance and Anti-



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Corruption, with effect from 01.03.2012. Out of the total sanctioned strength of 747 staff in the Directorate of Vigilance and Anti-Corruption as in the year 2012, 608 officers and staff were granted 15% special pay, while 139 of the staff members were omitted to be extended with the said benefit. These 139 staff members are claimed to be the Ministerial Staff of the Department. When these 139 members claimed the special pay in par with the other staff members who were given the special incentive, the Directorate had made a recommendation to the Government vide its letter Rc.No.A1/21082/2011 dated 16.03.2012, pointing out the financial implications when 15% special pay is awarded to the left-out staff members and made favourable recommendations for sanction of special pay, based on the revised scale of pay 2009, to the left-out category of ministerial staff. This recommendations came to be rejected by the Government through the impugned letter dated 15.10.2012, with a single line reply stating that 'the request is not feasible of compliance'. Hence, the writ petition.

2. It is rather unfortunate that when a major section of staff members of the Directorate of Vigilance and Anti-Corruption had been sanctioned with 15% special pay, some of them alone have been discriminated and denied



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with this special allowance. In the recommendations of the Directorate, the nature of duties performed by the omitted staff members were also highlighted, thereby bringing the nature of duties on par with that the staff members who have been granted with 15% special pay. This apart, the financial implications on the proposed sanction was also communicated to the Government. The Government in all fairness ought to have addressed all these issues while rejecting the proposal rather than closing the file with a single line statement, 'request is not feasible for compliance.'

3. There is no *reasonable classification* or *intelligible differentia* between the omitted staff members, qua the sanctioned members. Rather, there seems to be a clear element of discrimination particularly when the nature of duties undertaken by these ministerial staff and their working hours, who are in no way different from that of the beneficial staff members. Thus, this Court is of the view that these ministerial staff members, who are about 139 in number, including the petitioners herein, may deserve a similar benefit of 15% special pay.

4. The Hon'ble Bench of High Court of Calcutta in W.P.C.T.No.118 of



2008 [***Kisalay Mukherjee & Ors. Vs. Union of India & Ors.***] had dealt with

entitlement of some monetary benefits for the Ministerial Staff of Central Investigation of Bureau [in short 'CBI'] qua the staff working in Research and Analytical Wing [in short 'RAW'] and Intelligence Bureau [in short 'I.B'] who had the benefits of special incentive and held that such ministerial staff would be entitled to receive the incentive allowance like that of their colleagues working in other departments. Relevant portion of the order reads as follows :

'..... We are, however, of the view that the issue was not properly placed before the Pay Commission. The observation of the Pay Commission made the issue more complex as instead of removing the anomaly it would give rise to further anomaly in case of such special incentives were taken care in the matter of revision of pay of the executive staff. We do not know whether it has already been done or not. Whether the applicants would be entitled to such incentive or not, is completely within the domain of the executive. The Pay Commission being a body of expert could also consider the same. We are only competent to examine the decision-making-process to find out whether the fundamental rights were violated or not. In the instant case, the applicants repeatedly cried hors to contend that identical benefits were extended to RAW AND I.B. whereas they were denied the incentive. Neither the Pay Commission nor the Central Government through the Under Secretary ever addressed this issue. Under Article



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14 and 16 of the Constitution every citizen is equal in the eye of law and is entitled to equal protection of law. The only exception to the rule is "**reasonable classification**" with "**intelligible differentia**". We are constrained to observe that the respondents miserably failed to show any "**reasonable classification**" far to speak of having "**intelligible differentia**". It is common knowledge of all that CBI, RAW and I.B. are discharging almost similar functions. If identical benefit could be extended to Ministerial Staff of RAW and I.B. there could be no earthly reason why CBI would be deprived of that. Neither the Pay Commission nor the Central Government or the Central Administrative Tribunal addressed the issue from this angle.

We are unhesitatingly of the view that the applicants must succeed before us. We are unable to agree with Mr.Das that the issue could be remanded back to the authority. We are of the view that the authority once rejected such contention, no purpose would be served by remanding the issue back to them. It would unnecessarily prolong the issue.

The application succeeds and is allowed.

The order of the Tribunal is set aside.

The Central Government is directed to extend identical benefit of incentive allowance to the Ministerial Staff as was extended to the executive staff vide circular dated September 11, 2006. We, however,



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observe that the Central Government would be free to decide on the extent of benefit being the percentage, however the same must maintain parity and must be in co-relation to their colleagues working in RAW and I.B. unless the Central Government could differentiate them cogently.'

5. The aforesaid extract is self-explanatory. Thus, rejecting the detailed proposal of the Directorate of Vigilance and Anti-Corruption in a single line proceeding and not considering the case of the petitioners herein, as well as the other left out ministerial staff of Directorate of Vigilance and Anti-Corruption, for sanction of 15% special pay, is unjustifiable and discriminatory.

6. In the light of the above findings, the impugned order stands quashed. Consequently, there will be a direction to the first respondent herein to re-consider the proposal of the Directorate of Vigilance and Anti-Corruption in Rc.No.A1/21082/2011 dated 16.03.2012, and pass appropriate orders within a period of three months from the date of receipt of a copy of this order.



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connected miscellaneous petition is closed.

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Index:Yes/No

Internet:Yes/No

Speaking order/Non-speaking order
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To

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- 2.The Principal Secretary to Government
Personnel & Administrative Reforms (N) Department
Fort St.George, Chennai – 9.
- 3.The Director
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Adyar, Chennai.



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M.S.RAMESH,J.

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