



W.P.No.20304 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.20304 of 2014

and

M.P.Nos.1 & 2 of 2014

J.Suguna

... Petitioner

Vs

1.The Commissioner of Labour,
DMS Compound,
Teynampet, Chennai – 600 006.

2.The Additional Commissioner of
Labour [Administration],
DMS Compound, Teynampet,
Chennai – 600 006.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent in No.G1/33337/13 dated 19.08.2013 and the subsequent proceedings issued by the 1st respondent in No.G1/21928/2009 dated 05.06.2014 and to quash the same in so far as the petitioner is concerned and consequently directing the respondents to grant revision of scale of pay as per the VIth Pay



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Commission recommendations by reckoning the services of the petitioner in the post of Assistant from 14.02.1991 with consequential Selection Grade and other benefits.

For Petitioner : Mr.J.Jayamalan
for Mr.G.Sankaran

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

ORDER

The order impugned rejecting the claim of the writ petitioner to grant revision of pay as per the VI Pay Commission recommendation by reckoning the services of the writ petitioner in the post of Assistant from 14.02.1991 with consequential Selection Grade and other benefits. is under challenge in the present writ petition.

2.The writ petitioner was appointed as Typist in the Labour Department on 07.12.1984 and she was promoted as Assistant on 12.02.1991. Her service was regularized in the post of Assistant with effect from 07.12.1984 and subsequently, the petitioner was receiving periodical increments. The Government issued orders in G.O.Ms.No.2420 Labour



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Department dated 17.11.1984 that the Junior Assistant/Typist in Labour

Department should pass the Labour and Factories Department test in Part A and B prior to promotion to the post of Assistant. The petitioner did not possess the qualification of pass in departmental test and therefore the benefit of revision of pay as per the VI Pay Commission recommendation was not granted to the writ petitioner.

3. Admittedly, the writ petitioner passed the first departmental test in May 1995 and another departmental test in May 1998. The Inspector of Labour, Vellore in order dated 18.03.2002 cancelled the increments granted from 01.01.1993 to 25.09.1998. However, the said recovery was subsequently quashed by the High Court which was confirmed by the Division Bench also. The Division Bench of this Court while confirming the order passed in the writ petition held that with respect to the re-fixation of pay scale of the respondent, though it is contended by the learned Special Government Pleader that it has been done in pursuant to the order of the Division Bench referred supra, the learned Single Judge merely directed the appellants to issue notice to the respondent and hear her and thereafter, pass appropriate orders. Now the appellants cannot be stated to be aggrieved by



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the said order. Therefore, the fixation of the writ petitioner was directed to be done as per the orders passed in the writ petition by the Division Bench of this Court.

4. Admittedly, the writ petitioner was not possessing the requisite qualification of pass in departmental test at the time of her promotion to the post of Assistant, however, subsequently the writ petitioner passed the departmental test and became qualified and pay was fixed as per the Government Orders in force.

5. Counter filed by the respondents states that the writ petitioner was promoted erroneously to the post of Assistant in violation of the amended rules issued in G.O.Ms.No.2420 Labour Department dated 17.11.1984. The writ petitioner was not qualified initially for promotion to the post of Assistant and there was a clerical error in communicating the Government Order which resulted in grant of erroneous promotion to the writ petitioner. However, the writ petitioner was not reverted and allowed to continue in service. The excess pay granted was also quashed by this Court.



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6.This being the factum, the writ petitioner was entitled for the fixation of pay in accordance with the Government Orders in force and as per her eligibility. In this view of the matter, the respondents are directed to fix the correct scale of pay as per the Government Orders in force and as per the eligibility of the writ petitioner for the purpose of grant of retirement benefits and pensionary benefits.

7.With these clarifications, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

23.06.2022

Internet:Yes
Index : Yes/No
cse

To

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S.M.SUBRAMANIAM, J.

cse

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