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W.P.No.23426 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:18.02.2022

Coram

The Hon'ble Mr. Justice **V.PARTHIBAN**

W.P.No.23426 of 2014

G.Ramasamy

...Petitioner

Vs.

The Director of Public Health and
Preventive Medicine,
DMS Compound, Teynampet,
Chennai.
...Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondents to fix the pay of the petitioner at the correct stage by granting benefits of Selection Grade and Special Grade and grant him promotion on par with his juniors with all consequential benefits in the light of the representation dated 07.03.2013 submitted by the petitioner.

For Petitioner .. Mr.V.Vijay Shankar

For Respondent .. Mr.V.Veluchamy
Additional Government Pleader

ORDER

The petitioner claims that he belong to Konda Reddy Community which is classified as Scheduled Tribe. He was selected



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for appointment to the post of Junior Assistant by the Tamil Nadu Public Service Commission in 1989 and joined service on 23.11.1989. His services were regularized by orders dated 07.11.1990 with effect from 23.11.1989. The petitioner at the time of filing of the Writ Petition appeared to have completed 24 years of service.

2.The grievance of the petitioner in this Writ Petition is that ever since the date of appointment, he continued to draw the same pay without sanctioning of any annual increment or increase in pay scale. He has not been granted regular selection grade or special grade, after completion of 10 years or 20 years, as the case may be. Further, he has not been considered for promotion to the next higher post, when his colleagues got appointed along with him got promoted. In the said circumstances, he had submitted a detailed representation in 2013 and as there was no response forthcoming, the petitioner is before this Court.

3.Mr.V.Vijay Shankar, learned counsel for the petitioner would submit that the annual increments and revision of pay scale plus promotion had not been favoured to the petitioner only for the reason that his community certificate is under scrutiny and verification. The learned counsel would submit that originally he filed O.S.No.848 of



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1985 before the District Munsiff Court, Mettur. After elaborate trial and marking of documents and on that basis of the documentary proof, the trial Court granted decree directing the RDO to issue community certificate. According to the learned counsel, the said decree has been appealed against and presently, it is pending in Second Appeal No.2196 of 2004 on the file of this Court. Despite succeeding before the trial Court, the petitioner's service benefits have not been revised and granted and as a result, the petitioner is made to languish with the same pay for more than two decades.

4. On notice, Mr.V.Veluchamy, learned Additional Government Pleader appeared for the respondents and a counter affidavit has been filed and it is stated that due to non-production of the original community certificate by the petitioner, a decision was taken on 01.06.1993 to cancel the selection of appointment of the petitioner. Aggrieved against the show cause notice, the petitioner has filed O.A.No.4607 of 1993 before the then Tamil Nadu Administrative Tribunal. The learned Tribunal vide order dated 23.07.1993 granted interim stay of the Public Service Commission's show cause notice dated 01.06.1993. In view of the stay granted by the Tribunal, the petitioner was eventually not removed from service.



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5.In the meanwhile, the petitioner had also filed O.S.No.848 of 1985 before the District Judicial Magistrate Court, Mettur and the suit was also decreed in favour petitioner vide judgment dated 22.10.1991. Thereafter, an appeal was preferred before the Sub Court in A.S.No.72/92 and the same came to be transferred to this Court in S.A.No.2196 of 2004.

6.In the meanwhile, the O.A.No.4607 of 1993 which was pending before the Tribunal came to be transferred before this Court on abolition of Tribunal and renumbered as W.P.No.16946 of 2006. This Court has disposed of the Writ Petition on 11.09.2007 directing the petitioner to submit his explanation to prove that he belong to Konda Reddy Community within three weeks. However, the fact of the matter is that the appeal against the order in O.S.No.848 of 1995 is still pending consideration before this Court.

7.The learned counsel would therefore submit that no finality has been reached on the community status of the petitioner. At the same time, merely citing the pendency of the dispute, the petitioner cannot be denied his service benefits for more than two decades.

8.Mr.Veluchamy, the learned Additional Government Pleader



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made his submissions on the basis of the averments and statements in the counter affidavit. But the fact of the matter is that the petitioner has been languishing in the same pay which fact has not been disputed by the respondent because of the reason of the pendency of the appeal before this Court.

9. Due to uncertainty in the community status of the petitioner, the normal service benefits that are to be granted to the Government servant periodically has been denied to the petitioner. It is incomprehensible for this Court to countenance the situation that the Government servant would be denied the periodical service benefits for more than two decades merely citing the verification of his community status has not been finalized.

10. As far as this case is concerned, the petitioner succeeded before the trial Court and obtained a decree in his favour. It is therefore, all the more reason that he should have been granted all the increments that are due and payable and also the other attendant benefits like revision of pay, pay scales etc., over the years.

11. The payment of annual increments and revision of pay cannot be denied to the petitioner as the work has been extracted by



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the respondents, and therefore, he is entitled to be paid as in the case of other employees.

12.As far as the promotion aspect is concerned, there may be some justification in not granting the said benefit till the status of the petitioner is finalised one way or the other. At the same time, denial of pay benefits to the petitioner cannot be justified at all by citing the pendency of appeal before this Court in regard to the caste status of the petitioner.

13.In view of the above, this Court has no hesitation to hold that the petitioner is entitled to the issuance of the Writ of Mandamus. Therefore, the Writ Petition stands allowed and a direction is issued to the respondent to fix the pay of the petitioner and to grant annual increments and revise the pay of the petitioner appropriately by granting him selection/special grade as the case may be whenever such benefit became due and admissible to the petitioner. It is also made clear that the petitioner is also entitled to all the admissible pay and allowances including arrears of revision of pay scales till date.

14. The respondent is directed to pass appropriate orders



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within a period of eight weeks from the date of receipt of a copy of this order.

15. It is also made clear that the petitioner, in the meanwhile is not entitled to claim any promotion till his caste status claim is settled one way or the other.

16. With the above observations, the Writ petition stands allowed. No costs.

18.02.2022

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Index:Yes/No
Internet:Yes

To

The Director of Public Health and
Preventive Medicine,
DMS Compound, Teynampet,
Chennai.



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V.PARTHIBAN,J.

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