



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.3583, 4298, 4459 & 6026 of 2014

W.P.No.3583 of 2014

- 1.R.Peter Edwin
- 2.R.Sasi
- 3.T.Paulthurai
- 4.N.Dharmaraj
- 5.C.Manohar
- 6.S.Robinson
- 7.C.Kathiravan
- 8.C.Dixon
- 9.V.Arul
- 10.S.Lenin
- 11.G.Rajan
- 12.A.Kumar
- 13.B.Suresh
- 14.V.Iyappan
- 15.G.Maria Lazar
- 16.R.Mohana Kumar
- 17.C.Manikandan
- 18.C.Krishnan
- 19.G.Aruldas
- 20.C.Dhasan

...Petitioners

Vs.

- 1.Director General,
Highways Department,
Chepauk, Chennai - 600 005.
- 2.Divisional Engineer,
Highways Department,
(Construction & Maintenance)
Nagercoil - 1,
Kanyakumari District.
- 3.Assistant Divisional Engineer,
Highways Department,
(Construction & Maintenance)
Kuzhithurai Sub Division,
Kuzhithurai,
Kanyakumari - 629 151

..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 of the 1st respondent in proceeding No.9623/Estd 4(1)/2013-1 dated 05.8.2013 and to quash the same and consequently direct the 1st respondent to revise the pay of the petitioners (unskilled posts) in accordance to G.O.Ms.No.338 Finance (Pay cell) department dated 26.8.2010.

W.P.No.4298 of 2014

- 1.Mr.A.Selvakumaran
- 2.Mr.P.Thankaraj
- 3.Mr.M.Rajesh
- 4.Mr.P.Suyambulingam
- 5.Mr.N.Raveendradhas
- 6.Mr.T.Sundaresan
- 7.Mr.K.Soman
- 8.Mr.T.Rajakumar
- 9.Mr.S.Arunachalavadi
- 10.Mr.P.Retnasamy
- 11.Mr.S.Gunasekaran
- 12.Mr.M.Sivathanulingam
- 13.Mr.M.Sahaya Savarimuthu
- 14.Mr.J.Stanley
- 15.Mr.R.Jeevakumar
- 16.Mr.S.Sasi
- 17.Mr.C.Murugan
- 18.P.Ramalingam

...Petitioners

Vs.

- 1.The Secretary to Government,
Highways and Minor Ports Department,
Fort.St.George, Chennai.
- 2.Director General,
Highways Department,
Chepauk, Chennai - 600 005.
- 3.Divisional Engineer,
Highways Department,
(Construction & Maintenance)
Nagercoil - 1,
Kanyakumari District.

..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 of the 1st respondent in proceeding No.9623/Estd 4(1)/2013-4 dated 05.8.2013 and to quash



the same and consequently direct the 2nd respondent to revise the pay of the petitioners (unskilled posts) in accordance to G.O.Ms.No.338 Finance (Pay cell) department dated 26.8.2010.

W.P.No.4459 of 2014

- 1.Mr.P.Ravi
- 2.Mr.N.G.Gopalakumar
- 3.Mr.N.Mahendra Singh
- 4.Mr.K.Ilango
- 5.Mr.M.Thankappan
- 6.Mr.P.Annathurai
- 7.Mr.Mohamed Rawoof

...Petitioners

Vs.

1.The Secretary to Government,
Highways and Minor Ports Department,
Fort.St.George, Chennai.

2.Director General,
Highways Department,
Chepauk, Chennai - 600 005.

3.Divisional Engineer,
Highways Department,
(Construction & Maintenance)
Nagercoil - 1,
Kanyakumari District.

..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 of the 2nd respondent in proceeding No.9623/Estd 4(1)/2013-3 dated 05.8.2013 and to quash the same and consequently direct the 2nd respondent to revise the pay of the petitioners (unskilled posts) in accordance to G.O.Ms.No.338 Finance (Pay cell) department dated 26.8.2010.

W.P.No.6026 of 2014

- 1.C.Chokkalingam
- 2.M.Prabhakaran

...Petitioners

Vs.

1.The Secretary to Government,
Highways and Minor Ports Department,
Fort.St.George, Chennai.



2. Director General,
Highways Department,
Chepauk, Chennai - 600 005.

3. Divisional Engineer,
Highways Department,
(Construction & Maintenance)
Nagercoil - 1,
Kanyakumari District.

.. 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 of the 2nd respondent in proceeding No.9623/Estd 4(1)/2013-2 dated 05.8.2013 and to quash the same and consequently direct the 2nd respondent to revise the pay of the petitioners (unskilled posts) in accordance to G.O.Ms.No.338 Finance (Pay cell) department dated 26.8.2010.

For Petitioners : M/s.Malarvizhi Udayakumar
[in all W.Ps]

For Respondents : Mrs.S.Anitha
Special Government Pleader
[in all W.Ps]

COMMON ORDER

The orders impugned, rejecting the claim of the writ petitioners for revision of scale of pay with reference to G.O.Ms.No.338 Finance (Pay cell) Department dated 26.8.2010 are under challenge in the present writ petitions.

2. The writ petitioners are working as 'Salai Paniyalar' (Gang Mazdoor) in the Highways Department.

3. The grievances of the writ petitioners are that their scale of pay has not been fixed in accordance with the Government order issued in G.O.Ms.No.338 Finance (Pay cell) department dated 26.8.2010 and the revised pay scale as applicable and contemplated in the said Government order was denied.

4. The claim of the writ petitioners were that the revised scale of pay of Rs.4800-10,000+1300 was fixed and the Government order in G.O.Ms.No.338 Finance (Pay cell) department dated 26.8.2010 contemplates the revision of scale of pay as 5200-20,200+1,900 Grade Pay. Thus, they made a representation to revise their scale of pay as per the Government order issued in G.O.Ms.No.338. In view of the fact that the representations were



kept pending, the petitioners earlier filed W.P.Nos.13199 of 2013, 16676 of 2013, 15618 of 2013, 15781 of 2013 and this Court directed the authorities to consider the representations and pass orders on merits. Pursuant to the orders of the High Court dated 03.06.2013, 21.06.2013, 11.06.2013, 12.06.2013, the impugned orders have been passed in proceedings dated 05.08.2013. Thus, the petitioners are constrained to move the present writ petitions.

5. The learned counsel appearing on behalf of the writ petitioners reiterated that the Post of Salai Paniyalar (Gang Mazdoor) are to be classified as unskilled post and even for the unskilled post, the said revision effected in G.O.Ms.No.338 Finance (Pay cell) department dated 26.8.2010 is to be applied. It is not only the technical post, wherein, the revised pay was granted. But, in respect of unskilled post also, such revision was effected. Therefore, the claim of the writ petitioners are to be considered.

6. The learned Special Government Pleader appearing on behalf of the respondents objected the contentions by stating that the claim of the writ petitioners were considered with reference to spirit of G.O.Ms.No.338 Finance (Pay cell) department dated 26.8.2010. No doubt, the Chief Engineer recommended the case of the writ petitioners and the said recommendation was rejected by the Government by stating that the post of Salai Paniyalar (Gang Mazdoor) is not a Technical post or Trade post. In respect of Technical post / Trade post alone, such revision was effected and the qualification for the post of Salai Paniyalar is pass in 5th Standard and they do not perform any technical job and therefore, the said revision contemplated in G.O.Ms.No.338 Finance (Pay cell) department dated 26.8.2010 cannot be granted. When the Government rejected the claim based on the nomenclature fixed in the Government order, there is no reason whatsoever to consider the writ petitions. Thus, the learned Special Government Pleader made a submission that the writ petitions are devoid of merits.

7. Status report filed by the third respondent, Divisional Engineer (H), reveals that the petitioners are working as Gang mazdoors. The petitioners have been fixed in the Pay Scale of Rs.2550-3200 in the post of Gangmazdoor (Salai Paniyalar) before 01.01.2006 and after 01.01.2006, their scale of pay has been revised in the scale of pay of Rs.4800-1000+1300(Grade Pay). To rectify the anomalies in the pay scales of various categories, One Man Commission has been constituted and certain scales are modified in the year 2010. Some other Trade Posts have been classified as unskilled and their corresponding grade pay has been re-fixed as 5200-20200+1900. The petitioners requested to

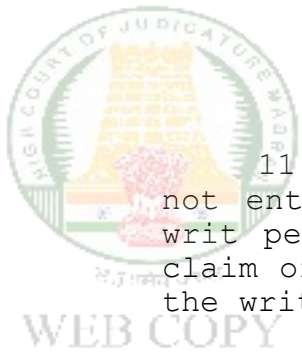


fix their pay scale on par with other Technical Posts and approached the High Court in W.P.No.13199 of 2013 and based on that, a direction to consider the representation in the light of G.O.Ms.No.338 Finance (Pay cell) department dated 26.8.2010, the impugned orders have been passed.

8. It is contended by the respondents that the representations given by the petitioners were considered and the petitioners were not entitled for revision of pay scale given in G.O.Ms.No.338 Finance (Pay cell) department dated 26.8.2010. The revision has been allowed in the said Government order only for the Trade Post, which are based on I.T.I qualification / work experience. However, for Salai Paniyalar (Gang Mazdoor), the educational qualifications is fixed as pass in 5th Standard and no technical qualification / work experience is to be considered as a criterion for recruitment. Even though the pay scale is similar, the qualification of Gang Mazdoor (Salai Paniyalar) Post could not be categorized as a Trade Post and a revision of pay scale was accordingly rejected.

9. It is stated that the Government of Tamil Nadu has approved the revised scale of pay from 01.01.2016 as per the recommendations of the Official Committee 2017 and petitioners salary has been re-fixed as per their option exercised to move from 4800-1000+1300 to level one with minimum pay of Rs.15700/- and maximum pay of Rs.50000/- as per G.O.Ms.No.303 Finance (pay cell) Department dated 11.10.2017. Further, in G.O.Ms.No.90, Finance (pay cell) Department dated 26.02.2021 as per recommendations of One Man Committee, petitioners salary has been again hiked from 15700-50000 to 15700-58100 in Level (1) for pay band 4800-10000+1300 (Grade Pay).

10. It is categorically stated that the petitioners have exercised their option to move from 4800-1000+1300 pay band to the Pay Matrix Level (1) 15700-50000 from October 2017 and in Pay Matrix Level (1) 15700-58100 from March 2021. The petitioners have completely accepted the Pay hike and receiving the salary. When the revision of pay was effected and the petitioners have opted for the revised scale of pay and such a revised scale of pay was further hiked to 15700-58100 in Pay Matrix Level (1), there is no reason whatsoever for this Court to consider the revision of scale of pay based on G.O.Ms.No.338 Finance (Pay cell) department dated 26.8.2010. That apart, the Government has considered the claim of the petitioners with reference to G.O.Ms.No.338, and found that the Post of Salai Paniyalar (Gang Mazdoor) is not a Technical post nor a Trade post and therefore, the said revision made in G.O.Ms.No.338 Finance (Pay cell) department dated 26.8.2010 is not applicable.



11. This being the factum established, the petitioners are not entitled for the relief as such sought for in the present writ petitions and the reasons stated for the rejection of the claim of the petitioners are candid and convincing and thus, all the writ petitions stand dismissed. No costs.

Sd/-

Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Highways and Minor Ports Department,
Fort.St.George, Chennai.
2. The Director General,
Highways Department,
Chepauk, Chennai - 600 005.
3. The Divisional Engineer,
Highways Department,
(Construction & Maintenance)
Nagercoil - 1,
Kanyakumari District.
4. The Assistant Divisional Engineer,
Highways Department,
(Construction & Maintenance)
Kuzhithurai Sub Division,
Kuzhithurai,
Kanyakumari - 629 151

+1cc to Mrs.Malarvizhi Udayakumar, Advocate SR.No.33928

+1cc to Government Pleader SR.No.34851

W.P.Nos.3583,4298,
4459 & 6026 of 2014

GPL(CO)
GMY(21/06/2022)