

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

CORAM

THE HON'BLE MR.JUSTICE PARESH UPADHYAY
AND
THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.A.NO.2421 OF 2021

G.Jayaprakasam

...Appellant

Vs

1.Government of Tamil Nadu,
Rep. By Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai - 600 009.

2.The Director of Public Health and
Preventive Medicine,
Chennai - 600 006.

3.The Chief Water Analyst,
King Institute Campus,
Guindy, Chennai - 600 032.

...Respondents

Appeal preferred under Clause 15 of Letters Patent against the order dated 08.07.2020 made in W.P.No.12316 of 2013.

Prayer in W.P.No.12316 of 2013 : Writ of Certiorarified Mandamu, calling for the records of the second respondent relating to the Order in R.No.66468/E2/S2/12 dated 20.07.2012 and quash the same in so far as it relates to fixation of pay under Rule 22B and to direct the 1st and 2nd respondents to refix the pay of the petitioner under F.R.22B in the promoted post of Junior Water Analyst as on 15.03.1993 AN and on that basis refix his pay as per recommendation of successive pay panels and disburse consequential monetary benefits all within a time frame.

For Appellant : No appearance

For Respondents : Mr.Stalin Abhimanyu
Additional Government Pleader

JUDGMENT

(Made by PARESH UPADHYAY, J.)

1. Challenge in this appeal is made to the order dated 08.07.2020 recorded on W.P.No.12316 of 2013. This appeal is by the writ petitioner.

2. Learned advocate for the appellant / writ petitioner is not present in any of two calls. It is noted that, normally in the event of the counsel not remaining present, the petition / appeal can be dismissed for default and is not taken up for hearing on merits, however we note that, the appeal was listed earlier on number of occasions and at no point of time, learned advocate for the appellant has remained present. On some dates, absence is noted as well. Reference in this regard is made to orders dated 17.06.2022 and 27.06.2022. Today also, learned advocate for the appellant is not present in any of the two calls.

3. We have heard learned Additional Government Pleader and we have also taken note of the facts recorded by learned Single Judge. Prima facie reading thereof indicates that, the writ petitioner / appellant intends to keep the dispute pending before the Court live for years. The same can not be permitted. For that reason, the matter is considered on merits.

4. This appeal is filed against the order recorded on the writ petition, which was filed in the year 2013. The relief sought in the petition filed in the year 2013, was pertaining to fixation of pay ordered in the year 1996 pertaining to the year 1993. The said pay fixation was not questioned for more than one and half decade. It is only in the year 2013 writ petition was filed. To make that petition to appear within limitation, some where in the year 2008, innocuous looking petition was filed praying relief that the State be directed to decide representation. That petition was allowed. Considering that representation, the State passed an order that the pay fixation which was done in the year 1996 was just and proper and request of the petitioner for modification therein, was already rejected at the relevant time.

5. Learned Single Judge has taken the above factual aspects into consideration and has also examined, whether on merits the claim of the petitioner was justified or not. Learned Single Judge, on appreciation of the material on record, arrived at the conclusion that, there was no error in the pay fixation as on 01.07.1993 vide order dated 30.09.1996. We find that, rejection of writ petition by learned Single Judge, in this background can not be said to be an error which may call for any interference

in this intra-court appeal. Further, in this factual background, less motivation on the part of the appellant to proceed with the matter is also a factor, which would dis-entitle him from claiming any discretionary relief. This appeal therefore needs to be dismissed.

6. For the above reasons, this appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

ssm/58

To

1.The Principal Secretary to Government,
Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai - 600 009.

2.The Director of Public Health and
Preventive Medicine,
Chennai - 600 006.

3.The Chief Water Analyst,
King Institute Campus,
Guindy, Chennai - 600 032.

+1cc to Mr.J.Muthukumaran, Advocate Sr.No.41460

+1cc to the Government Pleader Sr.No.41419

W.A.No.2421 of 2021

RSV(CO)
RVM(12/07/2022)