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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WRIT PETITION NO.2710 OF 2014

R.Radhakrishnan
Deputy Secretary to Government,
Information Technology Department,
Fort St.George, Chennai - 600 009.

... Petitioner

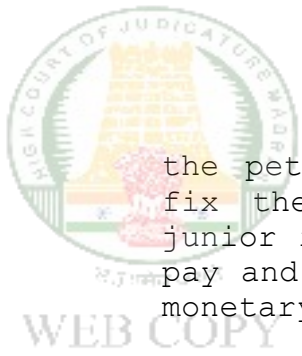
Vs.

1. The Principal Secretary to Government,
Personnel & Administrative Reforms Department,
Fort St.George, Chennai - 600 009.
2. The Principal Secretary to Government,
Finance Department,
Fort St.George,
Chennai - 600 009.
3. The Secretary to Government,
Information and Technology Department,
Fort St.George, Chennai - 600 009.
4. V.Sundar,
Joint Secretary to Government,
Finance Department,
Fort St.George, Chennai - 600 009.
5. P.Chelliah
Joint Secretary to Government,
Finance Department,
Fort St.George, Chennai - 600 009.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 3 herein to implement G.O.Ms.No.126, P & AR (U Spl.) Department dated 29.05.1998 in proper manner and consequently, upgrade the petitioner's post as Joint Secretary to Government and re-fix the pay of the petitioner on par with



the petitioner's post as Joint Secretary to Government and re-fix the pay of the petitioner on par with the petitioner's junior i.e., the respondents 4 and 5 and sanction the arrears of pay and allowances to the petitioner and grant all consequential monetary benefits with interest within a reasonable time.

For Petitioner : Mr.D.J.Adinarayanan

For Respondents : Mr.M.Bindran,
Additional Government Pleader
[R1 to R3]
No appearance [Respondents 4 and 5]

O R D E R

The relief sought for in the present writ petition is direct the respondents 1 to 3 herein to implement G.O.Ms.No.126, P & AR (U Spl.) Department dated 29.05.1998 in a proper manner and consequently, upgrade the petitioner's post and re-fix the pay of the petitioner on par with his junior.

2. With reference to the grievance of the petitioner for upgradation of post and for consequential monetary benefits on par with his juniors, learned Additional Government Pleader appearing for respondents 1 to 3 submitted that the representation submitted by the petitioner is under consideration by the Government.

3. The respondents 1 and 2 filed a detailed counter setting out the facts relating to the case. In paragraph No.5 of the counter, it is stated as follows:

"5. the upgradation/stepping up of pay cannot be given to the petitioner, whenever his junior (Thiru M.Sampath) in Finance Unit (who have got promotion as Joint Secretary to Government on 22.12.2010 vide G.O. (Rt.) No.1002, Finance Department, dated 01.12.2010) after the date of issue of the G.O.(Ms) No.154, Personnel and Administrative Reforms (U.Special) Department, dated 30.10.2009. As per the condition laid down in para 12(5) of G.O.(Ms) No.126, Personnel and Administrative Reforms (U.Special) Department, dated 29.05.1998, the upgradation ordered is a one time affair and any subsequent movement upward or downward either in the Finance Unit or in the One Unit after the date of issue of the order will not come under the purview of upgradation/stepping up of the



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pay. This condition has also been stipulated while issuing order in G.O.(Ms) No.154, Personnel and Administrative Reforms (U.Special) Department, dated 30.10.2009. Hence, it is submitted that no one is entitled for automatic upgradation/stepping up of pay in One Unit, whenever his/her junior in Finance Unit, got promotion, after issuing and fixing a cut-off date for getting the benefits of the G.O.(Ms) No.154, Personnel and Administrative Reforms (U.Special) Department, dated 30.10.2009. Further, it is submitted that orders have also been issued in G.O.(Ms) No.154, Personnel and Administrative Reforms (U.Special) Department, dated 30.10.2009 for upgradation/stepping up of pay of the seniors in One Unit who have been recruited to the Tamil Nadu Secretariat Service before 28.01.1994 and promoted as Assistant Section Officers from the category of Assistant (formerly Junior Assistant) only who are in service on the date of issue of the order, on par with their juniors in the Finance Unit with effect from the date of issue of the order as another one time affair, subject to the terms and conditions prescribed in the G.O.(Ms) No.126, Personnel and Administrative Reforms (U.Special) Department, dated 29.05.1998. The beneficiaries of G.O.(Ms) No.126, Personnel and Administrative Reforms (U.Special) Department, dated 29.05.1998 and those who were in service as on 30.10.2009 alone are eligible for upgradation of post/pay. Therefore, the Government have taken a decision and issued orders in G.O.(Ms) No.126, Personnel and Administrative Reforms (U.Special) Department, dated 29.05.1998, G.O.(Ms) No.171, Personnel and Administrative Reforms (U.Special) Department, dated 28.09.2006 and in G.O.(Ms.) No.154, Personnel and Administrative Reforms (U.Special) Department, dated 30.10.2009. Based on the above orders, no one is entitled for automatic upgradation/stepping up of pay in One Unit, whenever his/her junior in Finance Unit, got promotion, after issuing and fixing a cut-off date for getting the benefits of the said orders. Hence, the request of the petitioner was rejected by the Government for the reason that the upgradation/stepping up of pay cannot be given to the seniors in One Unit, whenever the juniors in Finance Unit, who have got promotion, after the date of issue of the G.O.(Ms) No.154, Personnel and Administrative Reforms (U.Special) Department, dated 30.10.2009 is correct, as per the terms and conditions prescribed in paragraph 12 (5) of the G.O.(Ms) No.126, Personnel and Administrative Reforms



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(U.Special) Department, dated 29.05.1998. It is also submitted that Government have allowed this concession as another one time affair vide G.O.(Ms) No.154, Personnel and Administrative Reforms (U.Special) Department, dated 30.10.2009, subject to the terms and conditions prescribed in G.O.(Ms) No.126, Personnel and Administrative Reforms (U.Special) Department, dated 29.05.1998 and it is a decision of the Government. It is also submitted that the representation of the petitioner (given in March 2013) is under consideration of the Government with the petitions received from the similarly placed persons."

4. In view of the fact that the representation submitted by the petitioner to grant benefits on par with his juniors is under consideration, it is suffice if a direction is issued to the respondents 1 to 3 to consider the issue and take a decision in accordance with law. In view of the counter filed, the respondents 1 and 2 are directed to consider the claim of the writ petitioner with reference to his representation and take a decision and pass appropriate orders on merits and in accordance with law within a period of twelve (12) weeks from the date of receipt of a copy of this order. The petitioner is directed to submit a copy of the representation enclosing the documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Principal Secretary to Government,
Personnel & Administrative Reforms Department,
Fort St.George, Chennai - 600 009.
2. The Principal Secretary to Government,
Finance Department,
Fort St.George,
Chennai - 600 009.



3. The Secretary to Government,
Information and Technology Department,
Fort St.George, Chennai - 600 009.

+1cc to Mr.D.J.Adinarayanan, Advocate, S.R.No.32766

+1cc to the Government Pleader, High Court, Madras, S.R.No.34227

Writ Petition No.2710 of 2014

SJ(CO)
RLP(15/06/2022)