



W.A(MD)No.84 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.09.2022

CORAM:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
W.A(MD)No.84 of 2013**

1.A.Subramanian (died)

2. A.Akilan

.. Appellant/Writ Petitioner

Vs.

1.Secretary to Government,
Handlooms, Handicrafts, Textiles and Khadi Department,
St.George Fort ,
Chennai- 600 009 .

2.The Finance Secretary,
Finance Department,
St.George Fort,
Chennai- 600 009.

3.The Chief Executive Officer,
Tamilnadu Khadi and Village,
Industries Board,



WA(MD)No.84 of 2013

Kuralagam,

Chennai-600 108.

.. Respondents/ Respondents

[2nd appellant is impleaded vide
Court order dated 21.09.2022 made
in CMP(MD)84/2013]

PRAYER: Appeal is filed under Clause 15 of Letters Patent against the
order dated 24.08.2012 made in W.P.(MD)No.432 of 2011.

For Appellant : Mr.D.Sivaraman

For Respondents : Mr.D.Sasikumar
Additional Government Pleader

JUDGMENT

J. NISHA BANU, J.
and
N. ANAND VENKATESH, J.

This writ appeal has been filed against the order passed by the
learned Single Judge in W.P(MD)No.432 of 2011, dated 24.08.2012.

2. The writ petitioner/1st appellant died during the pendency of
this writ appeal and hence his brother has been substituted in the place of
the deceased appellant.



WA(MD)No.84 of 2013

WEB COPY

3. The case of the writ petitioner is that he was appointed on 03.06.1988 by the third respondent. The appointment of the writ petitioner was regularised on 23.07.1999 by the third respondent through proceedings dated 23.07.1999. According to the writ petitioner, his services as a Fitter Grade-I was regularised belatedly and his promotions and increments were not properly sanctioned. The Fifth Pay Commission came into effect from 01.06.1988 and the petitioner sought for the salary fixed under the Fifth Pay Commission since his appointment dated back to 03.06.1988.

4. The representations made by the writ petitioner in this regard was not considered and hence the petitioner filed W.P.No.31799 of 2006 seeking for appropriate directions. The writ petition was disposed of through an order dated 06.09.2010 directing the third respondent to consider the representation made by the petitioner. The third respondent through the impugned proceedings dated 06.12.2010 revised the salary of the petitioner, but however, gave effect to the same only from the date of issue of the order. Aggrieved by the same, the writ petition was filed



WA(MD)No.84 of 2013

before this Court.

WEB COPY

5. The learned Single Judge, on considering the grievance of the writ petitioner, rendered a finding to the effect that the Khadi Board was an independent legal entity and the writ petitioner, who was working in the Board cannot claim parity with the Government servants as they form a different class. Accordingly, the learned Single Judge came to a conclusion that it was well within the power of the Khadi Board to grant the pay scale and make it operative from the date of the order.

6. Heard Mr.D.Sivaraman, learned counsel appearing for the appellant and Mr.D.Sasikumar, learned Additional Government Pleader appearing for the respondents.

7. It is seen from the records that the revision of scale of pay under G.O.Ms.No.762, dated 20.08.1986 for the Government Departments, was in operation even before the appointment of the writ petitioner in the Khadi Board. The writ petitioner joined in the Khadi Board as Fitter Grade-II on 10.06.1988 in the scale of pay of Rs.555-970.



WA(MD)No.84 of 2013

WEB COPY

8. According to the learned counsel for the appellant, the post of Fitter, which was brought under Group-II, was subsequently taken to Group-I through G.O.Ms.No.817, dated 27.07.1990. In view of the same, the benefits that were given to Group-I must also be given to those who were holding the post of Fitter. This is more so since such an effect was given in all the Government Departments. A decision was also taken to implement the Government Orders in Khadi Board also.

9. It is seen from the counter affidavit filed by the Khadi Board that four posts of Fitters were created by the Khadi Board through proceedings, dated 26.10.1987 in the scale of pay of Rs.555-970. The Government through G.O.Ms.No.6636, dated 27.06.1989, ordered revision of scale of pay for the post of Fitter and it was communicated to the Khadi Board through proceedings, dated 15.07.1989. Accordingly, the revision in the scale of pay was done and it was revised from Rs. 555-970 to Rs.825-1200. The pay of the appellant was also revised to Rs. 825-1200.



WA(MD)No.84 of 2013

10. The Government through G.O.Ms.No.162, dated 13.04.1998 revised the scale of pay to Rs.2750-4400 and a further revision took place in the year 2006 to Rs.5200-20200+Grade Pay Rs. 1800/-. In the case of the appellant, the Board had ordered for the fixation of his pay at Rs.5200-20200 + Grade Pay Rs.2200/- from the date of the issue of the order. By virtue of the same, the past disparity of the appellant was set right by revision his pay.

11. The only issue is as to whether the appellant was entitled for the revision with retrospective effect. The learned Single Judge came to a categoric conclusion that the writ petitioner/appellant does not have the legal right to demand for the retrospective effect of the revised scale of pay since no such allowance was given to any other employee in Khadi Board. The learned Single Judge came to a conclusion that the writ petitioner/appellant cannot seek for the same treatment that was given to the other departments belonging to the Government since the qualifications, method of appointment and duties and responsibilities assigned to the post are different.



WA(MD)No.84 of 2013

12. In the considered view of this Court, we do not find any infirmity in the order passed by the learned Single Judge. The writ petitioner/appellant cannot seek for a retrospective effect when no such allowance was extended to any other employee of the Khadi Board. In any case, the appellant is no more and his brother is seeking for the financial benefits to which the appellant is not entitled to.

13. In view of the above, this writ appeal stands dismissed. No Costs.

[J.N.B., J.] & [N.A.V., J.]

28.09.2022

Index : Yes/No

Internet : Yes/No

PJL

To

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Chennai- 600 009 .



W.A(MD)No.84 of 2013

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WEB COPY



W.A(MD)No.84 of 2013

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JUDGMENT MADE IN

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