



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.02.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY
W.P. (MD)No.16217 of 2013

WEB COPY

1.Retired Tamil Nadu Nugarporul
Vaniba Kalaga Paniyalarkal Sangam,
Represented by its Secretary,
P.Subramanian.

2.Palani

... Petitioners

Vs

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk,
Chennai - 10.

2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
9F, St.Thomas Road,
Maharaja Nagar,
Tirunelveli - 625 011.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records from the second respondent relating to the impugned letter N.K.No.E7/10073/13 dated 26.08.2013 and to quash the same and consequently to direct the respondents to refix the monthly salary of the members of the first petitioner's Association including the second petitioner by adding 5% personal pay along with their monthly salary due and payable to them from 01.08.1992 by implementing the order of the first respondent N.K.No.AE11/92534/11 dated 09.07.2012.

For Petitioners : Mr.P.Senthurpandian

For Respondents : Mr.G.Mohan Kumar

O R D E R

This Writ Petition has been filed for Certiorarified Mandamus seeking interference with an order of the second respondent dated 26.08.2013 and a consequential prayer to refix the monthly salary by adding 5% personal pay along with the monthly salary due and payable



to the petitioners from 01.08.1992 by implementing the order of the first respondent N.K.No.AE11/92534/11 dated 09.07.2012.

2. The writ petitioner is the Retired Tamil Nadu Nugarporul Vaniba Kalaga Paniyalarkal Sangam. It is a registered body bearing Registration No.72/2008. It is for the cause of retired employees of Tamil Nadu Civil Supplies Corporation, Tirunelveli and 54 members are affected by this non payment of 5% personal pay. The Association submitted representation to the respondents seeking 5% personal pay and the same was declined through impugned order dated 26.08.2013. In the impugned order, it has been stated that 5% personal pay would be considered only after receiving the order from the Head Office.

3. The facts of the case are that the said 54 persons were employed as Bill Clerks in the respondent Corporation, namely, Tamil Nadu Civil Supplies Corporation. Based on G.O.Ms.No.664 Finance (Pay Cell) Department dated 24.08.1992, the said Bill Clerks claimed 5% increase in personal pay. Without verifying the records, some 57 persons were granted 5% pay and there was an audit objection. Thereafter, recovery order was passed and the same was put to challenged before this Court and this Court has directed the respondents not to recover from the retired employees.

4. Now, the Association has come up with a plea to grant the said 5% personal pay to all the Bill Clerks. The petitioner Association members claim themselves to be the Junior Assistant and therefore they are entitled to the 5% personal pay.

5. Heard Mr.P.Senthurpandian, learned counsel for the petitioner and Mr.G.Mohan Kumar, learned counsel for the respondents.

6. The claim of the petitioner Association is that the Bill Clerks ought to be considered as Junior Assistant since they are getting the same pay when they are conferred with Special Grade pay. The contention of the petitioner was vehemently opposed by the respondents. The respondents relied on Tamil Nadu Civil Supplies Corporation Employees Service Regulations, under Group-III, the Junior Assistant is placed and under Group-IV, the Bill Clerk post is placed. Under the heading "Classification of Staff and Promotion", the feeder category for Junior Assistant, it is stated as:

*"By Direct Recruitment or by **Promotion from Bill Clerk** / Helpers transfer from Typist, Steno-Typist, Operators or Promotion from Attenders, Telephone Operators".*



From the service rules, it is evident that the Bill Clerk post is a feeder category for the promotion to Junior Assistant post.

7. The claim of the petitioners are Bill Clerk would be paid ordinary grant, when they stagnate in the same post for ten years, then they would be paid Selection Grade, if they stagnate for twenty years, they would be paid Special Grade. The Special Grade pay would be on par with Junior Assistant ordinary pay and therefore, the petitioner claims they should be treated as Junior Assistant. If they are treated as Junior Assistant, then they are entitled to 5% personal pay.

8. This Court is not able to understand such contention especially when the Bill Clerk post is the feeder category for the promotion to the post of Junior Assistant. The contention of the petitioner Association is unknown to the service jurisprudence. The Association is trying to rewrite the Tamil Nadu Civil Supplies Corporation Employees Service Regulations through this writ petition. The claim is totally illegal and in fact, the earlier payment itself is an illegal payment, the same cannot be substantiated and perpetuated endlessly. Hence, the claim in this Writ Petition is rejected.

9. The petitioner relied on the earlier order where the respondents were directed not to recover from the retired employees. That will not create any right to claim 5% personal pay. In fact the Court has not held that the petitioner's members are entitled to 5% personal pay, hence not to recover. The issue whether they are entitled to was not considered by any Court. It is raised in this case and this Court has held they are not entitled to in the earlier paragraph. Hence the writ petition is liable to be dismissed.

10. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk,
Chennai - 10.

2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
9F, St.Thomas Road,
Maharaja Nagar,
Tirunelveli - 625 011.

+1 CC to M/s.P.SENTHUR PANDIAN, Advocate (SR-4932[F] dated
09/02/2022)

+1 CC to M/s.G.MOHAN KUMAR, Advocate (SR-4827[F] dated 08/02/2022)

W.P. (MD) No.16217 of 2013
08.02.2022

AP(26.02.2022) 4P 5C