



W.P.(MD) No.2198 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.2198 of 2020

K.Amarnath

... Petitioner

-VS-

1.The State of Tamilnadu
Rep. By its Secretary to Government
Home Department
Fort St. George, Chennai 600 009.

2.The Director General of Police,
Kamaraj Salai, Mylapore,
Chennai

3.The Deputy Inspector General of Police,
Tiruchirappalli Range,
Tiruchirappalli

4.The Superintendent of Police,
Karur District, Karur.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the impugned order of the 4th respondent in Na.Ka.No.B1/9193/2019 dated



W.P.(MD) No.2198 of 2020

16.09.2019 and quash the same as illegal and consequently direct the respondents to grant the benefit of G.O.Ms.No.303 Finance (Pay Cell) Department, dated 11.10.2017 to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.M.Kannan
For Respondents : Ms.K.Christy Theboral
Additional Government Pleader

ORDER

Challenging the impugned order of the 4th respondent dated 16.09.2019 and for a consequential direction to the respondents to grant the benefit of G.O.Ms.No.303 Finance (Pay Cell) Department, dated 11.10.2017, the petitioner is before this Court with this writ petition.

2.The case of the petitioner is that he is a practising Advocate. As per G.O.Ms.No.496 dated 12.07.2013, 31 posts of legal officers were sanctioned to assist the Superintendent of Police in all 31 Districts for a period of one year. Accordingly, the petitioner was appointed and the pay was fixed as Rs.20,000/- per month as per the said G.O. On the petitioner's



W.P.(MD) No.2198 of 2020

WEB COPY

request and assessing his work, his tenure was extended for a further period of two years. Thus, the petitioner held the said post till January '2019. His pay of Rs.20,000/- was paid to him till his tenure. While so, the Government issued G.O.Ms.No.303 dated 11.10.2017, notifying the Tamil Nadu Revised Pay Rules, 2017, wherein, it has been recommended revision of pay, allowances, pension and other related benefits to the employees on consolidated pay/fixed pay/honorarium. As per the said G.O., 30% increase from regular consolidated pay from the date of issuance of the said G.O., has to be granted. The petitioner has made representation to the respondents to confer the said benefit to him stating that he is entitled to be considered as per the said G.O.No.303. However, the said representation came to be rejected vide impugned order dated 16.09.2019, challenging which, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that though the petitioner was appointed as legal officer for one year, considering his request, his tenure has been extended upto January 2019. While so, on 11.10.2017, G.O.Ms.No.303 was passed granting revision of pay,



W.P.(MD) No.2198 of 2020

WEB COPY

allowances etc., to the employees on consolidated pay/fixed pay/honorarium and therefore, the petitioner is also entitled to be considered and hence, prays for appropriate directions.

4.The learned Additional Government Pleader would submit that it is not in dispute that the Government has issued G.O.Ms.No.303 notifying the revised pay rules. The said G.O. would confine only to the employees on consolidated pay/fixed pay/honorarium for whom adhoc increase is allowed from time to time. It is further contended that no adhoc increase shall be applicable to the legal officers on consolidated retainer fee. The petitioner was only paid consolidated retainer fee of Rs.20,000/- per month from 07.01.2016 to 06.01.2019. Therefore, the G.O.No.303 is not applicable to the case of the petitioner and prays for dismissal of the writ petition.

5. Heard the learned counsel on either side and perused the materials available on record.

6. Admittedly the petitioner is a practising Advocate. He was



W.P.(MD) No.2198 of 2020

WEB COPY

engaged as a legal officer of the 4th respondent by fixing the monetary remuneration of Rs.20,000/- per month. The petitioner claims that Clause 23 of G.O.Ms.303 dated 11.10.2017 is applicable to him for which he made representation. However, the said benefit was rejected. On perusal of the said G.O.No.303, it is clear that the State Government accepted the recommendations made by the official committee and decided to extend the revision of scale of pay to the State Government employees on consolidated pay/fixed pay/honorarium and teachers including the employees of local bodies. However, this Court is of the view that Clause 23 is not applicable to the persons, working on consolidated pay/fixed pay/honorarium. G.O.Ms.No.496 was passed only to the limited extent of appointing legal officers to assist the Superintendent of Police in the relevant districts. In the present case, admittedly, the petitioner has not suspended his practise in the Bar Council of Tamil Nadu and he is continuously practising in the local Courts. In such view of the matter, his appointment is only to the extent of assisting the Superintendent of Police and there is no master-servant relationship and the relationship between the petitioner and the Government is a fiduciary relationship. It is pertinent to note that the petitioner was paid



W.P.(MD) No.2198 of 2020

WEB COPY

only consolidated retainer fee. When that being the position, claiming the benefit on par with the employees of the State is not sustainable and hence, the prayer that has been sought for cannot be granted. Accordingly, the writ petition is dismissed. No costs.

22.12.2022

Index : Yes/No
Internet : Yes
RR

To

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WEB COPY



W.P.(MD) No.2198 of 2020

M.DHANDAPANI, J.

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W.P.(MD) No.2198 of 2020

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