



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.5255, 5256 & 5259 of 2020

WEB COPY

R.Rajendran ... Petitioner in W.P.(MD)No.5255 of 2020
V.Ponnusamy ... Petitioner in W.P.(MD)No.5256 of 2020
A.Selvaraj ... Petitioner in W.P.(MD)No.5259 of 2020

vs.

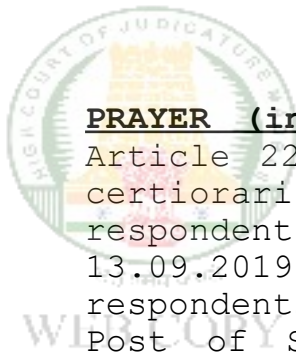
1.The Secretary to Government
Home Department
Secretariat, Fort George

2.The Accountant General (A&E) of Tamilnadu
361, Anna Salai
Chennai-18

3.The Director
Fire & Rescue Services, Tamilnadu
No.17, Rukmani Lakshmipathy Road
Egmore, Chennai-8 ... Respondents in all W.Ps.

PRAYER (in W.P. (MD) No.5255 of 2020): Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records pertaining to the 3rd respondent's proceedings in Na.Ka.No.10132/AA3/2019-(2), dated 13.09.2019 and quash the same and consequently direct the respondents to refix the petitioner's salary for the promotional Post of Station Fire Officer for the period of 01.05.2018 to 30.06.2018 from the Basic pay of Rs.39,800/- to Rs.44,800/- and to refix the consequential Terminal and Pension benefits of the petitioner in accordance with the Tamilnadu Revised Pay Rules 2017.

PRAYER (in W.P. (MD) No.5256 of 2020): Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records pertaining to the 3rd respondent's proceedings in Na.Ka.No.10132/AA3/2019-(4), dated 13.09.2019 and quash the same and consequently direct the respondents to refix the petitioner's salary for the promotional Post of Station Fire Officer for the period of 01.05.2018 to 30.06.2018 from the Basic pay of Rs.39,800/- to Rs.44,800/- and to refix the consequential Terminal and Pension benefits of the petitioner in accordance with the Tamilnadu Revised Pay Rules 2017.



PRAYER (in W.P.(MD) No.5259 of 2020): Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records pertaining to the 3rd respondent's proceedings in Na.Ka.No.10132/AA3/2019-(3), dated 13.09.2019 and quash the same and consequently direct the respondents to refix the petitioner's salary for the promotional Post of Station Fire Officer for the period of 01.05.2018 to 30.06.2018 from the Basic pay of Rs.39,800/- to Rs.44,800/- and to refix the consequential Terminal and Pension benefits of the petitioner in accordance with the Tamilnadu Revised Pay Rules 2017.

For Petitioner : Mr.N.Sankar Ganesh
(in all W.Ps.)

For Respondents : Mr.N.Satheesh Kumar
(in all W.Ps.) Additional Government Pleader for R1 & R3
Mr.P.Gunasekaran for R2

C O M M O N O R D E R

The orders of rejection rejecting the claim of the petitioners to refix their pay in the promotional post of Station Fire Officer on par with one R.Vaikundhaperumal are under challenge in the present writ petitions.

2. The petitioners joined as Fireman in the respondent - Department and promoted as Station Fire Officer. The petitioners retired from service on 30.06.2018, 31.05.2018 and 31.07.2018 respectively. The grievance of the petitioners is that their pay was not properly fixed in the promotional post of Station Fire Officer. A comparison was made with one R.Vaikundhaperumal, Station Fire Officer, who was receiving higher salary and therefore, the petitioners also submitted applications for revision of pay.

3. The Authorities Competent considered the case of the petitioners pursuant to the directions issued by this Court to consider the representations and made a finding that the fixation of pay was erroneously made in respect of R.Vaikundhaperumal and actions were initiated to correct his scale of pay as per the proceedings dated 10.09.2019. Therefore, the claim of the petitioners to refix their pay on par with the said R.Vaikundhaperumal cannot be granted.

4. The learned Additional Government Pleader appearing for the respondents 1 and 3 and the learned Standing Counsel appearing for the second respondent - Accountant General of Tamil Nadu made a submission that the pay fixation in respect of the petitioners in the promotional post was correctly done by the Authorities, which was verified by the second respondent - Accountant General of Tamil Nadu and the said pay fixation was accepted and all pensionary



benefits were also settled in favour of the petitioners. While so, the case of R.Vaikundhaperumal cannot be compared as actions were already taken during the relevant point of time to correct the errors in the fixation of pay.

5. This Court is of the considered opinion that a wrong fixation of pay cannot be followed as a precedent for continuing such wrong in perpetuity. Once a wrong fixation of pay is identified, then such error is to be rectified and in the present case, in respect of one R.Vaikundhaperumal actions were initiated for rectification. Therefore, the pay of the petitioners cannot be fixed based on the pay fixation of the said R.Vaikundhaperumal. Further, it is contended that pay fixation in respect of the petitioners was correctly done and it was accepted by the Accountant General of Tamil Nadu and all pensionary benefits were settled. This being the factum, the petitioners cannot compare their pay with the pay of R.Vaikundhaperumal as such fixation of pay was identified as erroneous fixation.

6. In view of the above facts and circumstances, this Court do not find any infirmity in respect of the impugned orders passed by the third respondent and the writ petitions are therefore dismissed. No costs.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

krk

To:

1.The Secretary to Government
Home Department
Secretariat, Fort George

2.The Accountant General (A&E) of Tamilnadu
361, Anna Salai, Chennai-18

3.The Director
Fire & Rescue Services, Tamilnadu
No.17, Rukmani Lakshmipathy Road
Egmore, Chennai-8

+1 CC to M/s.SPL.GP (SR-17175[F] dated 07/04/2022)

W.P. (MD) No.5255, 5256 & 5259 of 2020

06.04.2022

RK(19/04/2022) 3P 5C

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