



WP(MD)No.6692 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.06.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.6692 of 2020

S.Ramachandran

... Petitioner

/vs./

1.The Secretary to Government,
Health and Family Welfare Department,
St. Fort George, Chennai – 600 009.

2.The Director of Public Health and
Preventive Medicine,
DMS Campus, Teynampet,
Chennai – 600 006.

... Respondents

PRAYER: 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 impugned order issued by the 2nd respondent in R.No.93529/MP/1/S3/2019 dated 30.01.2020 and quash the same and consequently direct the respondents herein to revise the salary of the petitioner on par with his junior namely Mohammed Ameen.



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For Petitioner : Mr.C.Jeganathan

For Respondents : Mrs.D.Farjana Ghoushia,
Special Govt. Pleader.

ORDER

The petitioner herein seeks for a rectification of the anomaly in his pay scale with that of his junior viz., one Mohammed Ameen.

2. Rule 22-B Rulings (2) of the Fundamental Rules of the Tamil Nadu Government provides that in case where both the senior and junior were drawing the same scale of pay in the lower post, the senior who was promoted to the higher post, before drawing the next increment in the lower post, who would be drawing less pay than his junior, who was promoted to the higher post after drawing the next increment in the lower post, the pay of the senior officer in the higher post should be stepped up to a figure equal to the pay fixed for the junior officer in that higher post and the stepping up should be done with effect from the date of promotion or appointment of the junior. The conditions attached to this Ruling is that, both the junior and senior officers should belong to the same cadre and the post in which they have been promoted or appointed should be identical



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and in the same cadre; the levels in the pay matrix of the lower and higher posts in which they are entitled to draw pay should be identical; and that the anomaly should be directly as a result of the application of Fundamental Rule 22-B.

3. In the instant case, the petitioner herein was originally appointed as a Multipurpose Health Assistant and promoted as a Health Inspector Grade I with effect from 11.09.1995. His junior Mr.Mohammed Ameen was originally appointed as Leprosy Inspector, which post came to be integrated with the Director of Public Health and Preventive Medicine and redesignated as Health Inspector Grade I B. The post of Leprosy Inspector is equivalent to that of a Health Inspector Grade I B. Subsequently, through the G.O.Ms.No.382, Health and Family Welfare Department, dated 12.10.2007, the post of Health Inspector Grade 1 B was re-designated as Health Inspector Grade I and the scale of pay of Rs.4500-125-7000 was allowed to them. Thereafter, through the G.O.Ms.No.110, Health and Family Welfare Department, dated 06.05.2014, the Director of Public Health and Preventive Medicine, had refixed the pay scale to the Leprosy Inspector at Rs.4500-7000.



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4. In G.O.(D).No.917, Health and Family Welfare (L1) Department, dated 11.09.2014, Rule 10(b) of the Tamil Nadu Public Health Subordinate Service Rules came to be amended, whereby the scale of pay for the Leprosy Inspector was revised at Rs.4500-7000. Thus, when the post of Health Inspector Grade I B was redesignated as Health Inspector Grade I, both the petitioners, as well as his junior viz., Mr.Mohammed Ameen were brought under the same scale of pay at Rs.4500-125-7000.

5. Admittedly, the petitioner is senior to Mohammed Ameen. Thus, there appears to be a parity in the pay scale with effect from 1997, whereby his junior was drawing a higher scale than the petitioner herein. By applying Rule 22B Rulings (2) of the Fundamental Rules of the Tamil Nadu Government, it can be said that since the re-designation of the post from Health Inspector Grade I B to Health Inspector Grade-I, both the petitioner as well as his junior would be deemed to be in the same cadre and in the same post from 01.08.1997 onwards.

6. The respondents seems to have misconstrued the facts and have made an attempt to compare the earlier cadre held by both the petitioner and his junior.



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What requires to be considered here is, after the integration of Health Inspector Grade I B as Health Inspector Grade -I, which post the petitioner was also holding at that point of time, there cannot be any parity in the pay scale between the senior and junior, since both were holding the post of Health Inspector Grade-I. Thus, the reason assigned by the second respondent by quoting that the petitioner and his junior were not of the same cadre during their original appointment cannot be sustained.

7. In the result, the impugned order dated 30.01.2020, passed by the second respondent is quashed. Consequently, there shall be a direction to the second respondent herein to revise the salary of the petitioner and bring it on par with his junior viz., Mohammed Ameen from the date on which the parity arose. The second respondent shall pass such orders within a period of eight (8) weeks from the date of receipt of a copy of this order.

8. This writ petition stands allowed. No costs.

vsm

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Index : Yes
Internet : Yes



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M.S.RAMESH, J.

vsm

To

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Order made in
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Dated:
29.06.2022