



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.20914 of 2014

and

M.P.(MD)No.1 of 2014

WEB COPY

P.Govindaraju ... Petitioner

vs.

1.The Director of National Institute of Technology,
Department of Higher Education,
Ministry of Human Resource Development,
Shastri Bhawan, New Delhi-110 001.

2.The Chairman,
National Institute of Technology,
Trichy-15.

3.The Director,
National Institute of Technology,
Trichy-15.

4.The Registrar,
National Institute of Technology,
Trichy-15.

... 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 pertaining to the Impugned Order in No.NITT/Estt/Unitt II/7-1/14-15/197, approved by the Respondent No.3 and signed by Respondent No.4 in his communication, dated 16.06.2014 and to quash the same as illegal and consequently to direct the Respondent No.3 to re-fix the petitioner's scale of pay and basic pay in the pre-revised scale of Rs.1600-2660(IV PC) with effect from his date of joining 01.09.1995 and to grant corresponding scale with consequential monetary benefits within stipulated time by this Court.

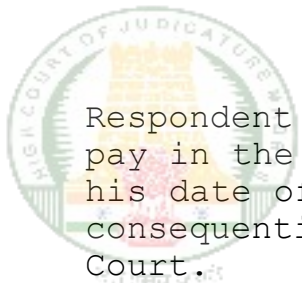
For Petitioner : Mr.G.Karthik
for M/s.T.Lajapathi Roy

For R1 : No appearance

For R2 to R4 : M/s.J.Maria Roseline

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the Impugned Order in No.NITT/Estt/Unitt II/7-1/14-15/197, and consequently to direct the



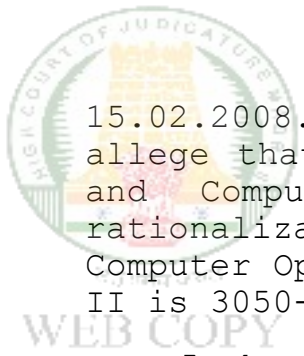
Respondent No.3 to re-fix the petitioner's scale of pay and basic pay in the pre-revised scale of Rs.1600-2660(IV PC) with effect from his date of joining 01.09.1995 and to grant corresponding scale with consequential monetary benefits within stipulated time by this Court.

WEB COPY

2.The brief facts of the case are that the petitioner was appointed on 23.01.1990 temporarily as Trainee Computer Operator for a period of 6 months on consolidated salary of Rs.1,000/- per month. The petitioner worked in the said post for 5 and half years. Thereafter, the petitioner was appointed as Data Entry Operator in the scale of pay of Rs.975-25-1150-30-1660 with effect from 01.09.1995 and posted in the office of Controller of examinations. Thereafter, the Data Entry Operator pay scale was refixed as per G.O.Ms.No.526, Finance Department (Pay Cell), dated 01.08.1992.

3.The contention of the petitioner is that the work involves Date Processing, which is mentioned in Paragraph No.10 of the institute letter, dated 16.06.2014 and in the year 2005, Data Entry Operator, whose educational qualification was degree was redesignated as Computer Operator. The further contention of the petitioner is that the Data Entry Operator and the Computer Operator are one and the same and the nature of work are one and the same and the pay scale ought to be one and the same, there cannot be any discrimination in payment, if the employees are carrying on the same work.

4.The respondents have filed a counter affidavit stating that the petitioner was initially appointed on the consolidated pay. Thereafter, regularized as Date Entry Operator and subsequently the petitioner's pay was revised as per G.O.Ms.No.526 and hence the petitioner's pay revision was done in accordance to Government order. The erstwhile Regional Engineering College was following the pay scale of Government of Tamilnadu. As per Service Rules of the Regional Engineering College Non-Teaching Administrative, Technical and Non-Technical Staff Rules, 1988, the post of Date Entry Operator was classified as Terminal Post and the incumbent of the post is entitled to movement to the next higher scale once in 6 years from the date of appointment subject to a maximum of two such movements in the entire service. The Regional Engineering College was subsequently transformed as National Institute of Technology in the year 2003. The designations of certain posts were changed along with rationalization of pay scale. The qualifications were prescribed by the Screening Committee. At the time of rationalization, the petitioner was redesignated as Computer Operator, which is also the terminal post without any change in time scale of pay and he occupied the said post after interview by the Screening Committee. The petitioner's re-designation as Computer Operator in the time scale of pay of 4000-100-6000, vide proceeding, dated 27.01.2005, was accepted by the petitioner in his letter, dated



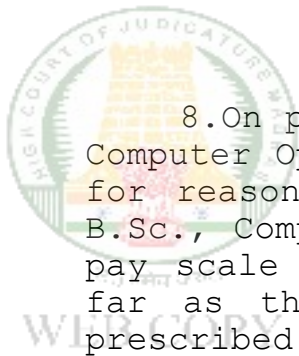
15.02.2008. It is absolutely wrong on the part of the petitioner to allege that the entry grade pay scale of both Data Entry Operator and Computer Operator were treated alike. Subsequent to rationalization of pay scales, the time scale of pay for the post of Computer Operator is 4000-100-6000, whereas, for Data Entry Operator II is 3050-75-3950-80-4590.

5.The contention of the petitioner is that the respondents have granted the Computer Operator post with effect from 27.01.2005 but the petitioner was engaged to do the same work from 01.09.1995 onwards. So, the petitioner is entitled to Computer Operator time scale of pay from the year 1995. The respondents denied such contention as illegal and the same cannot be accepted as per the service rules. Hence, the petition is devoid of merits and the respondents prayed to dismiss the Writ Petition.

6.Heard Mr.G.Karthik, learned Counsel appearing for the petitioner M/s.J.Maria Roseline, learned Counsel appearing for the respondents 1 to 4.

7. It is seen from the records that the Regional Engineering College, Tiruchirappalli-15 has issued a Advertisement No.9 of 1989 and in the Annexure it is stated that the post of Computer Operator and Date Entry Operator are different posts and the relevant portion is extracted under:

"III	Name of the post	:COMPUTER OPERATOR (ONE)
	Qualifications	:B.Sc. Computer Science-1 class or Diploma in Computer Applications from a recognized Institution with one year computer operation experience.
	Scale of Pay	: Rs.1200-30-1560-40-2040
	Age	:30 years upper age limit
IV	Name of the post	:DATA ENTRY OPERATOR (ONE)
	Qualifications	:As per the qualification prescribed for Typist in the State Government service staff in the service manual. Preference will be given to those who have already undergone computer Data Entry Courses.
	Scale of Pay	:Rs.950-20-1150-25-1170
	Age	:30 years upper age limit"



8. On perusing the above paragraph, it would be evident that the Computer Operator post is not equivalent to the Data Entry Operator for reasons that the qualification fixed for Computer operator is B.Sc., Computer Science or Diploma in Computer Applications and the pay scale fixed for the said post is Rs.1200-30-1560-40-2040. As far as the Data Entry Operator is concerned, the qualification prescribed for Typist in the State Government Service Staff in the service manual and the pay scale is Rs.950-20-1150-25-1170. The qualification of said two posts itself is completely different. So, the post of Computer Operator and Data Entry Operator cannot be considered as same post and same work.

9. The contention of the petitioner is that he is qualified to be a Computer Operator and he is serving the respondent Institute like that of a Computer Operator. He also contended that he is more efficient and he has more qualifications than the Computer Operator and hence he is eligible for the said post.

10. This Court is not able to understand such a plea. In a very recent recruitment for the post of Office Assistant in High Court, people with qualification of M.A. M.B.A. had applied and they were considered for the post of Office Assistant. After entering the service, they cannot claim, since they have master's degree they ought to be considered for the higher post than that of Office Assistant. The claim of the petitioner is as same as stated above, which can never be entertained. If the petitioner is more qualified to become a Computer Operator then, the petitioner ought not to have opted the job of Data Entry Operator. Based on his qualification, the respondent has recognized his service and granted the Computer Operator post in the year 2005. Originally the petitioner was considered for the post of Data Entry Operator, was offered the said post and the petitioner had accepted the said post. As rightly pointed out by the respondents, earlier the institute was functioning by the name and style of Regional Engineering College after rationalization, when the institute is called as National Institute of Technology, the petitioner was absorbed in the service as Data Entry Operator with the time scale of pay. The respondents regularized the service of the petitioner, when there was a post available and therefore, the petitioner cannot claim as a right to the post of Computer Operator from his original appointment. In fact, the petitioner has erroneously stated certain facts. The petitioner may be qualified to become a Computer Operator and may be doing the Computer Operator work, but, he was considered and appointed as Data Entry Operator in the Institution. When a vacancy arose in the Computer Operator post, then, only the candidate may claim a right over the post. In this case, admittedly the vacancy arose and the institution has recognized the petitioner's qualification and has granted Computer Operator post from the year 2005 onwards. Now, the petitioner cannot claim it as a right from the year 1995.



11. Therefore, the Writ Petition fails and the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

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.

To:

1.The Director of National Institute of Technology,
Department of Higher Education,
Ministry of Human Resource Development,
Shastri Bhawan, New Delhi-110 001.

2.The Chairman,
National Institute of Technology,
Trichy-15.

3.The Director,
National Institute of Technology,
Trichy-15.

4.The Registrar,
National Institute of Technology,
Trichy-15.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-3542[F] dated 02/02/2022)

+1 CC to M/s.SPL.GP (SR-3983[F] dated 03/02/2022)

W.P. (MD)No.20914 of 2014

01.02.2022

RD(28.03.2022) 5P 7C