



W.A.Nos.1185 to 1200 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.A.Nos.1185 to 1200 of 2015
and M.P.Nos.1,1,1,1,1,1,1,1,1,1,1,1,1,1,1 and 2,2,2,2,2,2,2,2,2,2,2,2,2,2,2
of 2015**

1.State of Tamil Nadu
Rep.by its Secretary to Government
Home (Police) Department,
Fort St.George, Chennai-9.

2.The Director General of Police
Tamil Nadu, Chennai-4.

3.The Commissioner of Police
Coimbatore City, Coimbatore.

... Appellants in all the Appeals

-Vs-

P.Ravisankar
R.Thandapani
G.Devadoss
K.Lakshmanan
R.Thirunavukkarasu
W.A.1189/2015
P.Veerappan
M.Sardar
R.Mayilsamy
C.Abraham Chelladurai
K.M.Ramasamy
M.Subramanian
K.Chandran
R.Radhakrishnan
S.Vincent Bernabas
N.Mohan
R.Murugesan

... Respondent in W.A.1185/2015
... Respondent in W.A.1186/2015
... Respondent in W.A.1187/2015
... Respondent in W.A.1188/2015
... Respondent in
... Respondent in W.A.1190/2015
... Respondent in W.A.1191/2015
... Respondent in W.A.1192/2015
... Respondent in W.A.1193/2015
... Respondent in W.A.1194/2015
... Respondent in W.A.1195/2015
... Respondent in W.A.1196/2015
... Respondent in W.A.1197/2015
... Respondent in W.A.1198/2015
... Respondent in W.A.1199/2015
... Respondent in



W.A.Nos.1185 to 1200 of 2015

W.A.1200/2015

Prayer : Writ Appeals under Clause 15 of the Letters Patent against the order in W.P.Nos.10269 to 10284 of 2012 dated 18.04.2012.

In all W.As.

For Appellants	:	Mr.K.V.Sajeev Kumar Special Government Pleader
For Respondent	:	Notice served, No appearance

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

The private respondents in all these appeals are police personnel who were enlisted in the police department as Grade II police constables and subsequently promoted as Grade I police constables and further promoted as Head Constables. All of them were working as Head Constables in Coimbatore city. While that being so, it is their claim that there has been pay disparity between them and those who were similarly placed, according to them. It is their further contention that the similarly placed persons, at least two, in order to step up their basic pay, filed writ petitions in W.P.Nos.9527 and 9528 of 2006 and the said writ petitions were allowed by the writ Court on 13.09.2010, which according to them, had been implemented by the appellant / employer.

2. Therefore, seeking parity that the same treatment to be meted out to those individuals, the respondents herein have filed the respective writ petitions ie.,10269 to 10284 of 2012. The writ petitions were heard together and were



W.A.Nos.1185 to 1200 of 2015

disposed of by the writ Court by order dated 18.04.2012 in the matter of

P.Ravisankar and Others -vs- State of Tamil Nadu and Others, where the

learned Judge has given the following direction:

" In view of the said submission, the writ petition is disposed of granting liberty to the petitioners to make individual representation before the third respondent, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the third respondent shall consider the said representations to be submitted, in the light of the earlier order passed in W.P.Nos.9527 and 9528 of 2006 dated 13.09.2010, which was also implemented by the third respondent on 08.10.2011, within a period of eight weeks from the date of receipt of the representations. Consequently, connected miscellaneous petitions are closed. No costs."

3. Aggrieved over the said order, these appeals were directed by the appellant / State Government.

4. Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for the State would submit that, the said direction issued by the learned Judge, if it is only a direction to consider the representation in innocuous nature, the appellant State Government might not have any grievance. However, since the learned Judge has given a direction to consider the representation of these respondents / petitioners in the writ petitions in the light of the order passed in W.P.Nos.9527 and 9528 of 2006 dated 13.09.2010 and also based on the fact that the orders in those



W.A.Nos.1185 to 1200 of 2015

writ petitions since have been implemented by the appellant / State on 08.10.2011, the said direction definitely would have a larger impact on various police personnel, for which they were not entitled ie., to have additional salary by fixing the salary on par with others. Therefore, against the said order in W.P.Nos.9527 and 9528 of 2006, appeals were preferred before this Court in W.A.Nos.398 and 399 of 2013 in the matter of **State of Tamil Nadu and Others -Vs- R.Radhakrishnan and another** and those writ appeals came to be disposed of by the order of a Division Bench dated 02.07.2013, where the Division Bench inter alia has held as follows:

" 10. A Division Bench of this Court in *Union of India and Others vs. Registrar, Central Administrative Tribunal and Others* (CDJ 2008 MHC 5189), after taking into consideration, the various decisions rendered by the Hon'ble Supreme Court of India, held that junior drawing more pay than the Senior will not constitute an anomaly; nor is it a result of the application of Fundamental Rule 22(I)(e)(1).

11. The Government has also decided for implementation of the common order passed by the Tribunal in O.A.Nos.10317/1997 batch dated 06.04.2004 and accordingly passed G.O.Ms.No.637, Home (Pol.IX) Department dated 03.08.2009 and in para 7 of the said Government order making it very clear that in future, it should be indicated to the persons who are opting for transfer that they shall be paid salary befitting the lower ranking persons.

12. This Court, in the light of the reasons assigned above, is of the considered view that the impugned common order allowing the writ petitions is unsustainable both on law and on facts and hence, it is liable to be interfered.



W.A.Nos.1185 to 1200 of 2015

13. In the result, both these writ appeals are allowed and the common order dated 13.09.2010 made in W.P.Nos.9527 and 9528 of 2006 is set aside. Consequently, both the writ petitions are dismissed. However, in the circumstances of the case, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed."

5. Pursuant to the said Division Bench order, in fact the appellant / State sought to recover the excess amounts paid to the two police personnel who were petitioners in W.P.Nos.9527 and 9528 of 2006. Therefore, against such proposed recovery, they filed Special Leave Petitions in S.L.P(C) Nos.29959 and 30038 of 2013 before the Hon'ble Supreme Court. Those SLPs were converted into Civil Appeal Nos.13407 and 13409 of 2015, which were disposed of by a common order dated 17.11.2015, where the Hon'ble Supreme Court has held as follows:

" 18. In the light of these reasons and further keeping in view the short controversy involved in the case which is somewhat akin to the case of Shaym Babu (supra), we are of the view that similar directions, which were given in the case of Shaym Babu, can also be given in these appeals against the respondents. In other words, it shall only be just and proper not to recover any excess amount from the appellants, which has been paid to them on the basis of stepping up of their pay scale. It is much more so when as mentioned above, the appellants have given up their challenge to the respondent's main action taken against the appellants objecting for the grant of benefit of stepping up of their pay and confined their attack to the issue of recovery of excess amount from them.



W.A.Nos.1185 to 1200 of 2015

19. In view of foregoing discussion, the appeals succeed and are hereby allowed in part. The impugned order is modified only to the extent of directing the respondents not to make recovery of any excess amount from the appellants in relation to the payment made to them towards stepping up of their pay scale."

6. Relying upon those judgments and the subsequent development, the learned Special Government Pleader would contend that, the direction issued by the learned judge in the impugned judgment to consider the representation of these respondents in the light of the order passed in W.P.Nos.9527 and 9528 of 2006 since has been aside by the Division Bench of this Court, which has been confirmed by the Hon'ble Supreme Court, where the main challenge was given up by those two employees, who preferred the Special Leave Petitions, at this juncture the direction of the learned Single Judge in the impugned order to consider the representation of these respondents in the light of the order passed in W.P.Nos.9527 and 9528 of 2006, does not arise. Therefore, in that context only, these appeals were filed and since had been kept pending, the same have to be disposed of, learned Special Government Pleader contended.

7. Though the respondents were served, none is present before this Court on behalf of them. We have considered the submissions made by the learned Special Government Pleader and perused the materials placed on record.



W.A.Nos.1185 to 1200 of 2015

8. No doubt, the order passed by the writ Court in W.P.Nos.9527 and 9528 of 2006 dated 13.09.2010 was set aside by the order of the Division Bench dated 02.07.2013 in W.A.Nos.398 and 399 of 2013 as cited supra. Insofar as the direction given by the learned Judge in the impugned order is concerned, the representations in this regard have to be considered, only on its own merits, but not on the basis of the order passed by the writ Court in W.P.Nos.9527 and 9528 of 2006 dated 13.09.2010, as that order has been set aside. Therefore, to that extent, the order passed by the learned Judge giving a rider to consider the representations in the light of the order dated 13.09.2010 need not be followed. But, at the same time, the other direction given by the writ court to consider the representation of the respondents herein on merits in accordance with law can be sustained. Therefore, having clarified the said position, we feel that all these appeals can be disposed of with the following order.

9. That it is open to the appellants to consider the representations given by the respondents as directed by the learned Judge in Para 4 of the impugned order dated 18.04.2012 made in W.P.Nos.10269 to 10284 of 2012 on merits and in accordance with law. It is made clear that, while making the said consideration, the earlier order passed by this Court in W.P.Nos.9527 and 9528 of 2006 dated 13.09.2010 need not be followed, as the respondents cannot seek parity in fixation of pay based on the said order passed by the writ Court in the order dated 13.09.2010 in view of the same having been set aside by the Division Bench of this



W.A.Nos.1185 to 1200 of 2015

Court, which has been confirmed by the Hon'ble Supreme Court.

WEB COPY

10. With the above directions and modification of the impugned order passed by the writ Court dated 18.04.2012, all these writ appeals are disposed of. No costs.

(R.S.K.,J..) (K.B.,J.)

24.07.2023

Index : Yes/No

Internet : Yes/No

KST



WEB COPY



W.A.Nos.1185 to 1200 of 2015

R.SURESH KUMAR, J.
and
K.KUMARESH BABU, J.

KST

W.A.Nos.1185 to 1200
of 2015

24.07.2023