



W.P. No.12441 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.12.2023

CORAM :

**THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER
KUMAR**

W.P.No.12441 of 2012

N.Mathivanan

.. Petitioner

Versus

1.The Government of Tamil Nadu,
Rep.by its Principal Secretary,
Home (Police V) Department, Secretariat,
Chennai – 600 009.

2.The Director-General of Police,
Chennai – 600 004.

... Respondents

Writ 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 respondents herein ending with the order of the 1st respondent in Letter (D).No.1094, Home (Police V) Department, dated 02.11.2010, quash the same in so far as it went against the Petitioner herein, direct the respondents to step up the pay of the petitioner on par with his junior Ms.R.Savithiri with effect from 29.07.1983 (the date of promotion of the junior) and consequently refix the pay of the petitioner from time to time by allowing him to exercise revised options wherever needed.

For Petitioner : Mr. K. Doraisamy, Senior Advocate,
for Mrs. Muthumani Doraisamy.

For Respondents : Mr. G. Amedius,
Government Advocate.



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ORDER

This Writ Petition has been filed seeking to quash the letter(D).No.1094, Home (Police V), Department, dated 02.11.2010 wherein the request of the petitioner for stepping up of the pay on par with his Junior namely, Ms.R.Savithiri, with effect from 29.07.1983 was negated by the first respondent.

2. The relevant facts that are necessary for disposal of this Writ Petition, are as hereunder :

The petitioner herein was appointed as a Typist on 09.12.1971, whereas, the said Ms.R.Savithiri, was appointed as a Typist on 14.08.1972. There is no dispute that the said Ms.R.Savithiri is Junior to the petitioner herein in the cadre of typist. The petitioner herein was promoted as Assistant on 23.07.1979, whereas the said Ms.R.Savithiri was promoted as Assistant on 29.07.1983. The petitioner herein, having noticed that the said Ms.R.Savithiri has been drawing higher pay than that of the petitioner from 29.07.1983, approached the first respondent, requesting for stepping up of the pay of the petitioner on par with the



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said Ms.R.Savithiri. But, the same was negated by the first respondent by passing the impugned order dated 02.11.2010.

3. In response to the notice issued to the respondents by this Court, the respondents filed a counter affidavit, wherein, it has been stated that the reason for the junior of the petitioner drawing higher salary than that of the petitioner was on account of the fact that the petitioner passed the Accounts Test prior to the implementation of the 3rd Pay Commission i.e., Rs.5/-, whereas the said Ms.R.Savithiri passed the Accounts Test after implementation of the 3rd Pay Commission and she was extended the increment of Rs.15/-. The relevant paragraph namely Para No.6 of the counter affidavit reads as under:

“ 6. It is submitted that the main crux of the issue is the petitioner was sanctioned the advance increment for passing Account Test prior to the implementation of III-Pay Commission at Rs.5/-, whereas Tmt. R. Savithiri was sanctioned the advance increment after the implementation of III-Pay Commission at Rs.15/-. Hence, the anomaly arose between them from 29.07.1983. Regarding removal of anomaly for junior getting more pay than senior consequent on the sanction of advance increment for passing Account Test, the Government in its letter No.157065/Ser.G/89-6, dt.1.3.90, have



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stated that the anomalies arising after III-Pay Commission and IV-Pay Commission cannot be cured and anomalies of this kind arising after 1.4.1978 but before 1.6.1988 cannot be rectified.”

4. In the light of the undisputed fact situation that the petitioner herein is Senior to Ms.R.Savithiri and has been drawing a lesser pay than that of his Junior, because of the fact that the petitioner had passed the Accounts Test, thereby entitling for the advance increment prior to the 3rd Pay Commission and his Junior passed the Account Test after implementation of the 3rd Pay Commission, the action of the first respondent in refusing to step up the pay to the petitioner on par with his Junior, is totally illegal.

5. The fact that the petitioner passed the Accounts Test, prior to his junior cannot be a ground to differentiate the petitioner and refuse to step up his pay on par with his Junior. The very purpose of providing for stepping up of pay, is only to address such anomalies that occur like in the fact situation in this case.



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6. In the light of the above, the reasons assigned in the impugned order are wholly unsustainable and accordingly the impugned order is set aside, and the Writ Petition is allowed, by directing the respondents to step up the pay of the petitioner on par with his Junior Ms.R.Savithiri with effect from 29.07.1983 with all other monetary benefits payable, consequent upon such step up. The respondents are further directed to comply with this order within a period of three months from the date of receipt of a copy of this order.

7. With the above directions, the Writ Petition stands disposed of. No costs.

20.12.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Case Citation : Yes/No

klr

To:

- 1.The Principal Secretary, Government of Tamil Nadu,
Home (Police) Department, Secretariat, Chennai – 600 009.
- 2.The Director-General of Police,
Chennai – 600 004.



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MUMMINENI SUDHEER KUMAR, J.

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