



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.1873, 1875 & 1879 of 2020 and
W.M.P.Nos.2196, 6813, 6815, 2200, 2195,
2198, 2203, 6817 & 2202 of 2020

1.Vijay Anand Perumal	...	Petitioner in W.P.No.1873 of 2020
2.Ramaiya Duraibabu	...	Petitioner in W.P.No.1875 of 2020
3.V.Sankar	...	Petitioner in W.P.No.1879 of 2020

Vs.

1.Union of India,
Rep by Secretary to Government,
Ministry of Shipping,
No.1, Parliamentary Street,
New Delhi 110 001.

2.Union of India,
Rep by Secretary to Government,
Ministry of Finance,
New Delhi 110 001.

3.Chennai Port Trust,
Rep. by its Chairman,
Rajaji Salai, Chennai 600 001.

4.The Secretary,
Chennai Port Trust,
Rajaji Salai, Chennai 600 001.



5. Financial Advisor & Chief Accounts Officer,
Chennai Port Trust,
Rajaji Salai, Chennai 600 001.

6. The Deputy Conservator,
Chennai Port Trust,
Rajaji Salai, Chennai 600 001.

... Respondents in all

W.Ps

PRAYER in all W.Ps : These Writ Petitions have been filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 6th respondent bearing No.D1/2770/2015/M dated 18.01.2020 and quash the same and consequently, direct the respondents 3 to 6 to restore the petitioner's pay scale of Rs.32900-58,000 with effect from the date of initial appointment onwards and pay the arrears of pay and allowances within a time frame.

In all W.Ps.

For Petitioners : Mr.K.M.Ramesh, Senior Counsel

For Respondents : Mr.B.Sudhirkumar,

Senior Panel Counsel for R1 & R2

: Mr.A.Kumaraguru,

Standing Counsel for R3 to R6

COMMON ORDER

These Writ Petitions have been filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned



order of the 6th respondent bearing No.D1/2770/2015/M dated 18.01.2020 and quash the same and consequently, direct the respondents 3 to 6 to restore the petitioners' pay scale of Rs.32900-58,000 with effect from the date of initial appointment onwards and pay the arrears of pay and allowances within a time frame.

2. Heard Mr.K.M.Ramesh, learned Senior Counsel for the petitioners and Mr.B.Sudhirkumar, learned Senior Panel Counsel for R1 & R2 and Mr.A.Kumaraguru, learned Standing Counsel for R3 to R6.

3. The petitioners, who were presently working as Marine Engineers in the third respondent Port Trust got aggrieved due to the reduction of their pay scale *vide* order dated 18.01.2020 of the third respondent. Earlier when similar order has been passed, the petitioners and others challenged the same by way of filing Writ Petitions in W.P.Nos.25462 to 25466 of 2016 and in which, orders have been passed to restore the old scale of pay of Rs.32900-58000. During the month of March 2015, once again the third respondent has reduced the pay scale of



the petitioners from Rs.32900-58000 to Rs.29100-54500. Hence, the petitioners filed Writ Petitions in W.P.Nos.2158 to 2160 of 2017 and that had been allowed by quashing the order of the third respondent.

3.1. Since the third respondent is in the habit of reducing the pay each time contrary to the earlier orders, which is condemnable once again in the impugned proceedings dated 18.01.2020. Despite the third respondent is aware of the earlier writ proceedings and orders passed in this regard, has chosen to adopt the same old practice of reducing the salary without notice. When the Courts have struck down such reduction and given concrete directions, the third respondent is not expected once again to reduce the pay scale, as per his whims.

4. In the counter of the respondents 3 to 6, it is stated as under:-

“15. I submit that as per the directions of the Ministry vide letter dated 01.10.2019 the pay scale of the Marine Officers were restored to scale of pay of Rs.29100-54500 and action was initiated to recover the excess paid amount. Meanwhile, the Hon'ble High Court in order



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dated 28.01.2020 in W.P.Nos.1873, 1875 and 1879 of 2020 has granted an interim order stating that no recovery will be initiated until further orders and hence recovery has not been made.

16. I submit that the petitioners have furnished an undertaking and they have accepted the terms and conditions in their appointment order. Thus the officers were aware of the fact of recovery of excess payment. And now the claim is violative of 1 which is not tenable in the Eyes of Law as the principle of “ubi-jus-ubiremedium” does not apply in this issue. The upgraded pay scale was reversed with effect from March 2015 as per Ministry of Shipping's direction vide letter dated 19.01.2015 and the same was informed to the respective officers. The recovery has been initiated consequent to Ministry of Shipping's letter dated 20.12.2016.”

5. The learned Senior Panel Counsel for the respondents 1 and 2 submitted that the financial concurrence is not given to the revised proposal for revision of pay and only because of that, the Ministry of Shipping has issued the impugned circular to the respondents 3 to 6.

6. The learned Standing Counsel for the respondents 3 to 6



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submitted that they cannot disobey the directions given by the respondents 1 and 2 and circulars are issued only in view of the same.

7. It is submitted by the learned Senior Counsel for the petitioners that some of the Marine Engineers and Pilots who got promoted during 2013, 2014 and 2016 have got pay scale of Rs.32,900-58,000 along with arrears and they were also given with the pre-existing pay scale of Rs.32,900-58,000 during their promotion. So the learned Senior Counsel for the petitioners submitted that the same treatment should be extended to the petitioners who are also similarly placed.

8. It is clarified with the learned Standing Counsel for the respondents 3 to 6 about the pay reduction of Captain Vinodh Kumar and Captain Prabhu Dhiravidamani and its subsequent restoration to old pay scale, it is submitted that as per the instruction of Ministry's order communicated vide Sr.Dy.CAO (E&B) vide No.AO (Marine)/Fixation/2019/F dated 04.11.2019, their scale of pay was restored. It is further submitted that the another Marine Engineer S.D.Sadhish Kumar who was promoted to the post of Chief Marine Engineer and Captain Syed Ahamedulla, Pilot, have also challenged the



order given to reducing their pay and the same is pending.

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9. The above submission of the learned Standing Counsel for the respondents 3 to 6 would only show that there are some Pilots and Marine Engineers who have also been given with pay reduction order and later their earlier pay was restored. When such is the case, there cannot be any problem in extending the same benefit to the petitioner also, irrespective of the fact of pending Writ Petition filed by the similarly placed two other persons. Since the respondents 3 to 6 did not mind to restore the pay by stultifying the earlier order of pay reduction in respect of those two persons, there need not be any hurdles to apply the same yardstick to the petitioners as well.

10. In the result, these Writ Petitions are allowed and the impugned order passed by the 6th respondent bearing No.D1/2770/2015/M dated 18.01.2020 is set aside and the respondents 3 to 6 are directed to restore the petitioners' pay scale as it has been done in the earlier occasions. No costs. Consequently, connected miscellaneous petitions are closed.



19.12.2023

Index : Yes

Internet : Yes/No

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R.N.MANJULA, J.

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To

1.The Secretary to Government,
Ministry of Shipping,
No.1, Parliamentary Street,
New Delhi 110 001.

2.The Secretary to Government,
Ministry of Finance,
New Delhi 110 001.

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