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W.P.No.28652 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.28652 of 2012

R.Packiyanathan

... Petitioner

Vs.

1. The Government of Tamilnadu rep. by
the Secretary to Government ,
Finance (CMPC) Department,
Fort St., George, Chennai-600 009.

2. The Director,
Tamilnadu State Health Transport Department,
475, Link Road, Nandanam, Chennai-600 035.

3. The Workshop Superintendent,
Regional Workshop (Health),
Collectorate Compound, Madurai-625 020.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Mandamus or any other Writ, Order or Direction in the nature of Writ of Mandamus, directing the respondents to grant 5% Personal Pay to the petitioner as done in the case of Fitter Grade-II in his Department and Electrician Grade-II in the Motor Vehicles Maintenance Department and grant him all consequential benefits.



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For Petitioner : Mr.P.Manoj Kumar

For Respondents : Mr.L.S.M.Hasan Fizal,
Additional Government Pleader

* * * * *

ORDER

This Writ Petition has been filed seeking direction to the respondents to grant 5% Personal Pay to the petitioner as done in the case of Fitter Grade-II in its Department and Electrician Grade-II in the Motor Vehicles Maintenance Department and grant him all consequential benefits.

2. Heard, the learned counsel appearing on either side.

3. The petitioner was initially appointed as Helper (Electrical) on 07.05.1990. As per G.O.Ms.No.1275, Health and Family Welfare Department dated 23.11.1992, the post of Helper (Electrical) was reclassified as as Electrician Grade -II and the post of Helper (Mechanical) as Fitter Grade II. The abovesaid two posts were previously in the scale of Rs.800-15-1010-20-1150. Subsequently, the petitioner was promoted as Electrician-I on 02.02.2000. The



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Government issued orders in GO.Ms.No.664, Finance(PC) Department dated 24.08.1992, thereby granted personal pay at 5% of basic pay to all categories of staff with effect from 01.08.1992. In the case of Electrician Grade II in the Motor Vehicles Maintenance Department, 5% personal pay has been granted as per order of this Court in W.P.No.7655 of 2006. Despite several representations, 5% personal pay has not been granted to the petitioner till now. Hence the Writ Petition.

4. The State Government issued order in GO.Ms.No.664, Finance(PC) Department dated 24.08.1992, directing that 5% of the Basic pay computed as on 01.08.1992 be granted as personal pay to the following categories:

(i) All employees in the pre-revised scale of pay at Rs.475--775 moving over to the revised scale of pay of Rs.775--1030.

(ii) All employees in the pre-revised scale of pay of Rs.610- 1075 moving over to the revised scale of pay of Rs.950--1500 or Rs.975--1660.



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(ii) All employees in the pre-revised scale of pay of Rs.705--1230 moving over to the revised scale of pay of Rs. 1200--2040 and

(iv) All employees in the pre-revised scale of pay of Rs.905-1545 moving over to the revised scale of pay of Rs.1600--2660. The Government further issued clarifications on the implementation of the Government Order referred above in letter No.106614/PC/92-1, Finance (PC) Department, dated 30-9-92.

5. The posts of Helper (Mechanical) and Helper (Electrician) were reclassified as Fitter Grade-II and Electrician Grade II by G.O.Ms.No.1275 Health and Family Welfare Department, dated 23.11.1992. Before the issuance of said Government Order, both the categories were placed in the pay scale of Rs.800-15-1010-20-1150 and after the issuance of said Government Order, both the categories moved to the pay scale of Rs.950-20-1150-25-1500.

6. In W.P.Nos.20156 and 13143 of 2000, this Court declared that denial of 5% personal pay is illegal. Following the said judgment, this Court also allowed the writ petition in W.PNo.16028 of 2010 dated



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06.06.2022. It is relevant to extract the relevant portion of the judgment of the Hon'ble Division Bench of this Court in WP.No.20156 of 2000 hereunder:

10. *According to the petitioners, Assistants in Sl.No.III who are in the selection grade and receiving the same scale of pay as that of the petitioners, were enjoying the benefit of 5% personal pay on basic pay. However, the petitioners were not given such benefit only on the ground that the Government has consciously omitted to include them in the said GO. The main intention in passing the said GO is to remove the anomaly in pay after the revision in the fifth Pay Commission. The contention of the petitioners is that the persons in the lower scale of pay and higher scale of pay as against the petitioners, were given the benefit of 5% personal pay of the basic pay, whereas the petitioners have been denied the same. The letter which is impugned in the writ petitions erroneously states that the employees in selection grade scale of Rs.1400-2600 cannot be compared with Head Clerks in Judicial Ministerial Service as the grade of these posts should be considered based on the ordinary grade level of a post and not with reference to the selection grade of a post.*



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7. Following the said judgment, this court held that it is an omission and anomaly and also held that omission of the in-between scales, would amount to discrimination, violative of Article 14.

8. Therefore, the petitioner is entitled for 5% personal pay with effect from 01.08.1992. Accordingly, the first respondent is directed to restore 5% personal pay with effect from 01.08.1992 to the petitioner and disburse all the arrears and consequential benefits including further revision of pay within a period of twelve weeks from the date of receipt of copy of this order. However, the petitioner will not be entitled for any interest on the said arrears.

9. With the above directions, this writ petition is disposed of.

There shall be no order as to costs.

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Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
mfa/gvn



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To

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2. The Director,
Tamilnadu State Health Transport Department,
475, Link Road, Nandanam, Chennai-600 035.
3. The Workshop Superintendent,
Regional Workshop (Health),
Collectorate Compound,
Madurai-625 020.
4. The Public Prosecutor
High Court, Chennai.



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G.K.ILANTHIRAIYAN,J.,

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