



WP No.1926 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2023

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

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S.Krishnamurthy

... Petitioner

-Vs-

1. The Deputy Secretary to Government
Commercial Taxes and Registration (K) Departmental
Secretariat, Fort St. George,
Chennai - 600 009.
 2. The Inspector General of Registration
Chennai - 600 028.
 3. The District Registrar
Office of District Registrar,
Cheyyar.
- ... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records connected with the impugned letter No. 226/K/2014-3 dated 30.04.2014 on the first respondent, endorsement K.Dis.No.46148/K3/2013 dated 20.11.2014 of the second respondent and letter Na.Ka.No.2908/Aa1/2014 dated 22.12.2014 and letter Na.Ka.No.791/Aa1/2015 dated 18.05.2015 of



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the third respondent and quash the same and directed the III respondent (competent authority) to fix his pay in the revised time scale of Rs.9300-34800 +4400 (Grade Pay) in the post of Special Grade Skilled Assistant Grade II with effect from 01.01.2006 and monetary benefits from 01.04.2013 with all consequential service and pensionary benefits.

For Petitioner : Mr.R.Manoharan

For Respondents : Mr.S.Ravi Kumar
Special Government Pleader

ORDER

Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with letter No. 226/K/2014-3 dated 30.04.2014 issued by the first respondent and the subsequent endorsement dated 20.11.2014 of the second respondent and the further letters dated 22.12.2014 and dated 18.05.2015 of the third respondent and to set aside all of them and to direct the third respondent to fix the pay of the petitioner in the revised time scale of Rs.9300-34800 +4400 (Grade Pay) by considering him as Special Grade Skilled Assistant Grade II with effect from 01.01.2006 and monetary benefits from 01.04.2013.



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2. The petitioner had been appointed as Binder on 11.09.1982 in the office of the District Registrar, Cheyyar. He was then granted Selection Grade Binder after completion of 10 years. It had been stated that under G.O.Ms.No. 313 Finance (Pay Cell) Department dated 22.07.2013, the time scale of pay from Rs.5200-20200+1900 (Grade pay) to Rs.5200-20200-2400 (G.P.) is to be given into effect from 01.01.2006 and the monetary benefit from 01.04.2013. This was with respect to Binder Grade-II in Stationery and Printing Department. It must be stated that the petitioner had been appointed in the Registration Department. He was the entirely working in the Registration Department.

3. For appointment of junior Binder in the Registration Department, 8th Std pass and knowledge of binding is required. With respect to Binder Grade-II in Stationery and Printing Department, the requisite qualification was 10th standard pass with ITI Trade Certificate in Binding.



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4. But however, one factor which will have to be kept in mind is that the petitioner joined in 1982. He had obtained the certificate of ITI qualification in the year 1980 prior to his joining. That may not be the basis of his appointment but must have been a compelling factor to appoint him as Binder in the Registration Department. Naturally with that particular certificate, which he got in the year 1980, he stood a better chance of being appointed rather than another candidate, who can only claim that he had experience in binding.

5. In this connection, the learned counsel for the petitioner placed reliance on G.O.Ms.No. 338 dated 26.08.2010 issued by Finance (Pay Cell) Department wherein a One Man Commission had been appointed to revise the pay scale of Grade-I and Grade-II posts. One issue which will have to be examined is whether the post which had been held by the petitioner could be termed as a trade post. In the very same Government Order, it had been stated as follows:-



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"4) The Government also direct that the trade posts with practical experience i.e. the category of Unskilled Assistants shall become defunct as and when the existing incumbents vacates the posts. Further all future recruitments to the trade posts in all Government departments / Local bodies shall be made to the post of Skilled Assistant Grade —II (entry level posts) from among the I.T.I certificate holders only by giving due protection to the existing incumbents. Accordingly, all Heads of Departments and Local bodies are directed to adhere to these orders scrupulously and send necessary proposals immediately to Government (concerned administrative department in Secretariat) for amending the relevant Service Rules as directed in these orders wherever necessary. Based on the above orders, all the administrative departments of Secretariat are requested to take necessary follow-up action and obtain necessary proposals from the Heads of Departments under their administrative



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control and expedite action to issue necessary amendment to the relevant service rules governing the Technical categories (Trade posts) immediately. "

6. The petitioner comes under a trade posts with practical experience but as unskilled Assistant. There is a separate post of skilled Assistant with ITI Certificate. By this particular Government, the Government had directed that the trade posts with practical experience that is the cadre of unskilled Assistants shall become defunct. This would also automatically mean that those who continue to work as unskilled Assistants, would have to be taken into consideration along with other skilled Assistants. The posts of unskilled Assistants had been stated to have become defunct and protection was given to those who were working at that particular past. The petitioner was so working. Naturally protection will have to be given to him.

7. A further reading of the aforementioned extract would also



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show that the respective Departments was directed to take follow up action and to obtain proposals from the Heads of Department. It had been further provided under paragraph No.5 is follows:-

"5) The revision of scales of pay ordered in para -3 above shall take notional effect from 01—01—2006 for the purpose of fixation of pay in the revised scales of pay and with monetary benefit from 01--8--2010. Pending issue of amendment to the relevant service adhoc rules, the Heads of Departments / pay fixing authorities concerned are directed to revise the scales of pay of the existing incumbents in the Trade posts as ordered in para—3 above. "

8. It had been stated that the scale of pay must be taken notionally effect from 01.01.2006 for the purpose of fixation of pay and that monetary benefits would be extended from 01.08.2010. This is the relief, the petitioner seeks.

9. The respondents on the other hand place reliance on



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G.O.Ms.No. 313 Finance (Pay Cell) Department dated 22.07.2013. That is a subsequent Government Order issued. However that is Government Order issued with specific reference to Binder Grade-II in Stationery and Printing Department.

10. It is the contention of the learned counsel for the petitioner that there cannot be two different clauses of Binders, since all of them perform the same work, namely, Binding. They may be in different Departments but the nature of the work is the same.

11. In this connection, the learned counsel for the petitioner placed reliance on a Judgment of the Hon'ble Supreme Court reported in **1988 1 SCC 122 [In the Daily Rated Casual Labour Employed under P&T Department through Bhartiya Dak Tar Mazdoor Manch case.]** wherein it had been held that the classification of workers [as unskilled, semi -skilled and skilled] and to take the same work into different categories for payment of wages at different rates was not tenable.

12. Pointing out the ratio laid down in the aforementioned



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Judgment, the learned counsel for the petitioner stated that this differentiation of a Binding working in the Registration Department and a Binder working in the Stationery and Printing Department cannot withstanding the scrutiny of the Court. The one differentiating factor is that the qualification of a Binder in the Registration Department which is termed as Junior Binder is 8th standard and experience in Binding. There is one further aspect. There is avenue for promotion of a Junior Binder. But with respect to Grade-II Binder post, there is no further promotion.

13. So far as the petitioner is concerned, he had been granted pay upto special pay and the benefits of the One Man Commission on his last drawn pay had been granted to him. But however, the learned counsel for the petitioner would submit that unfortunately, the respondents have not considered the Government Order in G.O.Ms.No. 338 dated 26.08.2010 and had passed the impugned order.

14. The impugned order was based on G.O.Ms.No. 313, which is



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not applicable to the petitioner since the petitioner cannot be categorised as Binder Grade II. He is in the Registration Department. This difference has not been examined in the impugned order. The impugned order will necessarily have to be set aside.

15. A direction is given to the respondents to examine the applicability of G.O.Ms.No. 338 dated 26.08.2010, particularly with respect to the stipulations that there cannot be two separate categories and also the fact that in the aforementioned Government Order, the category of unskilled Assistant had been declared to be become defunct. On the basis of that particular direction, the representation of the petitioner may be re-examined by the respondents.

16. Four months time is granted to the respondents to reexamine the entire process on the basis of G.O.Ms.No. 338 dated 26.08.2010 issued by Finance (Pay Cell) Department.



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17. The Writ Petition is disposed of since a direction is given to re-examine the pay scale of the petitioner. No costs.

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vsg/smv

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

To

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vsg

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