



W.P.No.8004 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.8004 of 2012

1. K.Daveedu

2. G.Joseph

.... Petitioners

Vs

1. The Government of Tamil Nadu,
represented by the Principal Secretary
to the Government,
Finance Department, Fort St.George,
Chennai – 600 009.

2. The Secretary to the Government,
Home Department, Fort St.George,
Chennai – 600 009.

3. The Deputy Inspector General of Police,
Armed Reserve, Chennai – 600 010.

4. The Works Manager,
Police Transport Workshop-cum-Training School,
Avadi, Chennai – 600 054.

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of mandamus, directing the respondents to grant the petitioners the benefit of personal pay of 5% of the basic pay in



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accordance with G.O.Ms.No.664, Finance (PC) Department dated 24.08.1992 with all consequential benefits including payment of arrears of salary and re-fixation of pay.

For Petitioner : Mr.P.Mohanraj

For R1 to R3 : Mr.K.H.Ravikumar,
Government Advocate

ORDER

This writ petition has been filed for direction directing the respondents to consider the petitioner's request for restoration of 5% of personal pay.

2. Heard, the learned counsel appearing on either side and perused the materials available on record.

3. The petitioners were initially appointed as Sanitary Worker on 12.09.1985 & 25.04.1986 respectively. He was not granted personal pay at the rate of 5% of basic pay. Subsequently, the Government issued orders in G.O.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. Therefore, the



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petitioners submitted a representation to the respondents on 25.01.2012 seeking for grant of 5% personal pay to them. However, no action has been taken by the respondents. Therefore, the petitioners were constrained to file this writ petition.

4. The issue involved in the present case is squarely covered by the common order passed by the Hon'ble Division Bench of this Court in W.P.Nos.20156 and 13143 of 2000, wherein this Court declared denial of 5% personal pay as illegal. Following the said judgment, this Court also allowed the writ petition in W.P.No.16028 of 2010 dated 06.06.2022.

5. On perusal of G.O.Ms.No.664, Finance(PC) Department. dated 24.08.1992, the following four specified pre-revised and revised scales of pay as on 01.06.1988 are eligible to get 5% basic pay as personal pay:

(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.



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(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.

(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.

6. The petitioner's scale of pay for the post of Sanitary Worker is Rs.450-10-570-15-720 and it falls in between 1st and 2nd category of the said Government Order. When the employees under the scale of pay of Rs.775-1030 are eligible for 5% of basic pay, the petitioner, who was fixed at scale of pay of Rs.450-720, is also eligible for basic pay of 5%. 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:



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“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”.

7. Following the said judgment, this Court held that it is an omission and anomaly and also held that omission of the in-between



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scales, would amount to discrimination, violative of Article 14 of the Constitution.

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
Lpp



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To
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