IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **20.06.2023**

CORAM

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

W.P.No. 22280 of 2014

V.Subramanian ... Petitioner

..Vs..

1. The Commissioner for Milk Production
and Dairy Development
Chennai – 600051.

2. The Managing Director
Tamil Nadu Co-operative Milk Producers'
Federation Ltd., Madhavaram Milk Colony,
Chennai – 600 051.

3. The Joint Managing Director,
Tamil Nadu Co-operative Milk Producers'
Federation Ltd., Nos. 29 & 30, Industrial Estate,
Ambattur, Chennai – 600 098. ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in Roc.No.13240/12/M1 dated 21.05.2014 and quash the same and direct the respondents 2 and 3 to grant Selection Grade to the petitioner with effect from 01.06.1998 and Special Grade with effect from 01.06.2008 in the post of Steno Typist Grade-II and pay interest at 18% per annum on the sum of Rs.2,88,391/- from 31.01.2009 to 03.10.2013.

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For Petitioner :: Mr. P.Rajendran

For 1st Respondent :: Mr. V.M.Ravichandran
Special Government Pleader

For RR 2 & 3 :: Mr.V.Rajinikanth

ORDER

The very short point that arises in this Writ Petition is whether the date on which the adoption was passed by the second respondent for extension of benefit is the correct date? or whether as per the adoption resolution, the date that has been given as the effective date is the relevant date?

2. The petitioner was appointed as a Call Boy in the Tamil Nadu Co-operative Milk Producers Federation Ltd., on 18.06.1979. He was promoted as Typist in the year 1980 and subsequently, promoted to the post of Stenographer and appointed as Senior Stenographer on 01.11.1983.

3. The Government had taken a policy on categorisation of Steno-Typist into Grade – I, Grade – II and Grade-III vide G.O.Ms.No. 284, P&AR Department, dated 19.08.1992. As per G.O.Ms.No. 883, Finance (BPE) Department dated 19.11.1992, the pay scale that was given to Steno-Typist was revised and it was implemented by the second respondent on 25.07.1995.

4. According to the petitioner, he is entitled to the revision of benefits notionally from 01.06.1988 and monetary benefits from 01.04.1992. This is because at the relevant time working as Steno-Typist Grade-II and on completion of 10 years of service, he would be entitled to get Selection Grade pay and on completion of 20 years of service, he will be entitled to Special Grade pay. The relevant date that has to be taken note of is the date on which the revision of pay stood adopted by the second respondent that is 01.06.1988.

5. The respondent would argue that since it was adopted only on 25.07.1995, the petitioner would be entitled to Special Grade only from 25.07.2005 and since he retired before completing 20 years of service, Special Grade pay would not be applicable to the petitioner.

6. I heard Mr. P.Rajendran, learned counsel for the petitioner, Mr. V.M.Ravichandran, learned Special Government Pleader, appearing for the first respondent and Mr.V.Rajnikanth, learned counsel appearing for the respondent Nos. 2 and 3.

7. I have carefully considered the arguments on either side.

8. There are two records, which will put an end to the dispute, namely, (i) the minutes of the 26th Personnel Committee Meeting of Tamil Nadu Co-operative Milk Producers' Federation Ltd., dated 12.05.1995 and (ii) the two proceedings of the Managing Director/second respondent dated 25.07.1995 & 20.06.2006 respectively. Being a Board under the Government of Tamilnadu, the Government orders do not automatically apply to the respondent Nos. 2 and 3 unless and until they are specifically adopted. The adoption should also be in terms found in the resolution. A perusal of the resolution shows as follows:-

*“ **Revision of Scales of pay and redesignation of the post of Steno-typist – Adoption of Government orders in Federation – Effectively Proposals – Regarding.***

***a)** After examining the proposal in detail, it is resolved that the positioning of the existing Senior Steno-Typists and Steno-Typists with the re-designation viz. Grade-I, Grade-II and Grade-III and the revised pay scales already approved vide Resolution No. 23 of the 22nd Personnel Committee Meeting held on 31.12.1993 be implemented in the Federation.*

***b)** As regards the effective date of the above revised pay scales, it is resolved that the re-designation of the posts and the revised pay scales shall be deemed to have come into force with effect from 1.6.1988 notionally for the purpose of fixation of pay in the revised scales of pay with monetary benefit from 1.4.1992. and* *c) The guidelines/instructions stipulated in the Government orders issued and the subsequent amendments thereon from time to time, be followed for the purpose of pay fixation."*

9. Pursuant to the resolution passed by the Board, the second respondent passed an order on 25.07.1995 revising the pay scale as follows:-

" ***ORDER***

Thiru V.Subramanian working as Sr.Steno-typist in Head Office and who was in receipt of the pre-revised scale of pay of Rs.705-20-745-25-845-35-1230 is redesignated as Steno-Typist Gr.II and placed in the revised scale of pay of Rs.1400-40-1600-50-2300-60-2600, applicable to the redesignated post, with effect from 1.6.1988 notionally for the purpose of fixation of pay in the revised scale of pay with monetary benefit from 1.4.1992.

\By order of Managing Director/"

10. For clarificatory letter to the Government of Tamilnadu, the second respondent had categorically held that the effective date of revision is granted on 01.06.1988 for the purpose of fixation of pay and the revised scale for monetary benefit is from 01.04.1992. Thus, three unpeachable arguments would conclude the case of the petitioner that his pay was fixed notionally from 01.06.1988 and he was entitled to the actual benefit from 01.04.1992. Therefore, the withholding of gratuity on the ground that there has been excess payment stands rejected.

11. Now turning to the impugned order, it would state that the amount of gratuity withheld to a sum of Rs.2,88,000/- had been paid and therefore, the petitioner is not entitled to any interest. Withholding of gratuity is not on account of any fault on the writ petitioner but on account of faulty understanding of the applicable orders passed by the respondent Nos. 2 and 3.

12. In similar circumstances, the Division Bench of this Court had granted interest at the rate of 10% per annum from the date of withholding of gratuity till the date of payment. Consequently, the petitioner will be entitled to the same relief.

13. The entitlement of the petitioner to Selection Grade and thereafter to Special Grade shall be calculated on the basis of keeping the cut off date as 01.06.1988, the date on which the petitioner was granted the benefits notionally as per the proceedings of the second respondent dated 25.07.1995 in reference proceedings No.35754/Pers/Estt.5/92-10.

14. With the above direction, this Writ Petition stands allowed. No costs.

20.06.2023

vsg

Index: Yes/No
Internet: Yes/No
Speaking / Non Speaking Order

To

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V. LAKSHMINARAYANAN, J.,

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