



W.P.No.24171 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.24171 of 2023

K.Anbu

... Petitioner

Vs

1. The Government of Tamil Nadu
Rep. by its Principal Secretary to Government,
Water Resources Department,
Fort St. George, Chennai – 600 009.

2. The Engineer-in-Chief [W.R.D.
College Road, Chennai – 600 006.

... Respondents

Prayer:- Writ Petition filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the file of the respondents 1 and 2 respectively pertaining to the issue of the impugned orders namely Letter No. 27476/ A2/ 2016- 3 dated 16.05.2019 issued by the first respondent and the second respondent proceedings No. S1(1) /37907/ 2016 dated 14.06.2019 and quash the



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same and consequently direct the respondents to revise the pay scale of the petitioner in the category of Assistant Executive Engineer on par with his junior Mr. R.Baskar, Assistant Executive Engineer with effect from 6.10.2007 and the consequentially the retiral benefits therefor and pay the arrears of pay and consequential arrears of retiral benefits pension therefor within a time frame and along with cost of this litigation.

For Petitioners : Mr.N.Subramaniyan

For Respondents : Mr.E.Vedabagathsingh,
Special Government Pleader

ORDER

This Writ Petition has been filed to quash the impugned orders namely Letter No. 27476/ A2/ 2016- 3 dated 16.05.2019 issued by the first respondent and the second respondent proceedings No. S1(1) /37907/ 2016 dated 14.06.2019 and consequently direct the respondents to revise the pay scale of the petitioner in the category of Assistant Executive Engineer on par with his junior Mr. R.Baskar, Assistant Executive Engineer with effect from 6.10.2007 and the consequentially the retiral benefits and pay the arrears of pay and consequential arrears of



retiral benefits pension therefor within a time frame fixed by this Court.

2. The grievance of the writ petitioner is that on the basis of the representation given by the petitioner dated 17.12.2015, his pay was revised on par with his Junior. However, when the proposal has been sent for ratification by the second respondent, the first respondent by an Order dated 25.11.2016 rejected the proposal stating that there is no provision for such sanction. Pursuant to the above Order, the second respondent cancelled revision of pay of the petitioner. Thereafter, the petitioner has again made a representation to the respondents requesting to revise his pay on par with his junior. The second respondent vide his proceedings dated 14.09.2021, sent a proposal by revising the pay of the petitioner on par with his junior. According to the petitioner, the above proposal is pending with the Government and no Orders have been passed.

3. The learned counsel appearing for the petitioner submitted that



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the proposal for revision the pay of the petitioner has been sent for approval. Therefore, the impugned Order earlier passed has to set aside, which is against Rules. The learned counsel for the petitioner brought to the notice of this Court G.O.Ms.No.112 passed by the Government wherein the pay anomaly has been set right. The learned counsel for the petitioner further submitted since the proposal is already pending with the Government and the same is only with regard to pay anomaly, the Writ Petition can be disposed of on the basis of the Rules governing the pay anomaly.

4. Perused entire materials available on record. It is relevant to extract FR 27 which reads as follows :

“27 (1) An authority may grant a premature increment to a Government servant on a timescale of pay if it has power to create a post in the same cadre on the same scale of pay.

[2] The Heads of Departments shall step up the pay of the senior on par with the pay of his junior. Such cases shall be sent to Government for ratification within one month from



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the date of refixation. The Government may ratify or refuse to ratify such fixation. If the Government refuses to ratify such fixation or any wrong fixation is noticed at a later date, the excess amount drawn by such fixation shall be recovered from the individual.”

5. As per the above Rule, an authority may grant a premature increment to a Government servant on a time-scale of pay, if it has power to create a post in the same cadre on the same scale of pay. Further, the letter No.45113/Pay Cell/2009-1, dated 17.08.2009 from the Principal Secretary to the Principal Secretary /Commissioner, Treasuries and Accounts wherein it is clarified that no specific rule provision is available under the Tamil Nadu Revised Scales of Pay Rules, 2009. However, on the analogy of the provisions made in Tamil Nadu revised Scales of Pay Rules, 1998, the said anomaly of junior getting more pay than senior in Tamil Nadu Revised Scales Pay Rules, 2009 may be set right by the pay fixing authorities as contemplated in the clarifications issued earlier. Further as per G.O.Ms.No.112 dated 04.05.22, similarly situated persons



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pay has been fixed on par with his junior. Admittedly, the proposal for revision of pay has also been sent to the Government by the second respondent on 14.09.2021. In such view of the matter, the first respondent is directed to pass an Order on the proposal sent by the second respondent within a period of two weeks from the date of receipt of a copy of this Order.

6. With the above direction, this Writ Petition is disposed of. No costs.

17.08.2023

Index:Yes/No

Neutral Citation : Yes/No

vrc

To,

1. The Principal Secretary to Government,
Water Resources Department,
Fort St. George, Chennai – 600 009.
2. The Engineer-in-Chief [W.R.D.
College Road, Chennai – 600 006.



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N.SATHISH KUMAR, J.

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