



WP.No.22704/2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.08.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.22704/2017

R.Krishnamoorthy

... Petitioner

Versus

- 1.The Additional Chief Secretary
Finance Department,
Fort St George, Chennai 600 009.
- 2.The Principal Secretary to Government
Public Works Department
Fort St George, Chennai 600 009.
- 3.The Engineer in Chief [WRO]
cum Chief Engineer [General]
Public Works Department
Chennai 600 005.
- 4.The Engineer in Chief [Buildings]
cum Chief Engineer [Buildings]
Chennai Zone, Public Works Department
Chennai 600 005.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for



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the records in pursuant to the impugned letter No.21403/C1/2014-7 dated 05.08.2015 issued by the 2nd respondent and the subsequent order passed by the 3rd respondent in Letter No.55[1]/21794/2017/C.R3 Year dated 02.08.2017 and quash the se orders and consequently direct the respondent 1 and 2 to refix the scale of pay of the petitioner in the scale of pay of Rs.5200-20200+GP 2600 with effect from 01.01.2006 on the basis of the proposal of the 3rd respondent submitted in proceeding Letter No.55[1]/048834/2014 dated 18.09.2014 and accordingly, revise the pension of the petitioner with all consequential monetary and sservice benefits.

For Petitioner : Mr.R.Prem Narayan
For Respondents : Mr.S.Ravikumar, Spl.GP

ORDER

- (1) The writ petition has been filed in the nature of a certiorarified mandamus seeking the records of a letter in Letter No.21403/C1/2014-7 dated 05.08.2015 issued by the 2nd respondent, the Principal Secretary to Government, Public Works Department, Chennai and the subsequent order passed by the 3rd respondent, the Engineer in Chief [WRO]- cum - Chief Engineer [General], Public Works Department in Letter No.55[1]/21794/2017/C.R3 Year dated



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02.08.2017 and to quash both the orders and to direct the respondents 1 and 2 to refix the scale of pay of the petitioner with effect from 01.01.2006 on the basis of the proposal of the 3rd respondent submitted in Proceeding Letter No.55[1]/048834/2014 dated 18.09.2014. The petitioner seeks consequential revision of pension and his monetary and service benefits.

- (2) The petitioner had retired on attaining the age of superannuation on 31.07.2013 as Irrigation Inspector in the office of the Assistant Executive Engineer, Vellar Basin Sub Division [WRO], Public Works Department, at Vridhachalam. He had originally joined as Office Assistant on 28.08.1980 and was subsequently promoted and finally retired as Irrigation Inspector. The grievance of the petitioner is that normally, according to the petitioner and as affirmed by the learned counsel for the petitioner, the Pay Band of Irrigation Inspector is fixed in between the pay scale/Pay Band of Junior Assistants and Assistants. The Irrigation Inspectors, therefore claimed to be a little higher in rank than Junior Assistants, but not higher than the Assistants. They fell in between. When the VI Pay Commission gave



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their proposals, the Pay Band was revised and the Pay Band of Junior Assistants were fixed at Rs.5200-20200 + GP 2000. The Irrigation Inspector, in which post the petitioner was functioning, the Pay Band was Rs.5200-20200 + GP 2200. For Assistants, the Pay Band was Rs.5200-20200 + GP 2400. If it had been retained at that, the petitioner would never had any cause or grievance. The Grade Pay determined was in between that of Junior Assistants and of Assistants. But, however the Junior Assistants and Assistants had cause for grievance and they filed a representation through their Union. On examination of their representation, the Pay Band was revised as Rs.5200-20200 + GP 2400 for Junior Assistants and as Rs.5200-20200 + GP 2800 for Assistants. Once that was revised, the petitioner/Irrigation Inspectors found that their Grade Pay was less than that of the Junior Assistants. This gave rise to further grievance. Therefore, through their Union, the Irrigation Inspectors had given a representation seeking revision of their pay also.

- (3) It must be kept in mind that the VI Pay Commission was in effect from 01.01.2006 to 31.12.2015 and thereafter, the VII Pay



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Commission had revised the pay scales with effect from 01.10.2016, but with monetary benefits from 01.10.2017. For this period between 01.01.2006 and 31.12.2015, the Pay Band of the petitioner was less than that of the Junior Assistants. When the VII Pay Commission came in and revised the pay, they had examined this particular anomaly and had refixed the pay as Rs.19,500-62,000 for Junior Assistants and as Rs.20,000-63,600 for Irrigation Inspectors and as Rs.20,600-65,500 for Assistants. With that revision, the Pay Band was again in between that of Junior Assistants and Assistants.

- (4) The grievance of the petitioner is with respect to the tenure of VI Pay Commission. Representation given by the Union/petitioner/Irrigation Inspectors were not answered directly by the respondents. The 2nd respondent had stated that though a proposal had been forwarded to revise the pay to the 3rd respondent, the Irrigation Inspectors would have to await the constitution of VII Pay Commission and place their representations there and that the VII Pay Commission would examine the grievances and set right the anomaly. They had actually did, but not for the earlier period, but for the period from which the



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VII Pay Commission came into effect. The two impugned orders are therefore, questioned whereby no specific decision was taken by the respondents. They had only relegated such decision making to the members of the VII Pay Commission.

- (5) In the counter affidavit, it had been very specifically stated that fixation of pay is a policy decision of the Government and the Court should not enter into any discussion on the same and the Executive would examine all the aspects and decide the pay which is to be fixed. They know the nature of work and they know the value of the work rendered and according to that, pays are revised, also based on other factors. Insofar as the claim of Irrigation Inspectors to fix their pay in between that of Junior Assistants and Assistants, it had also been stated that the Junior Assistants are directly recruited through the Tamil Nadu Public Service Commission whereas the Irrigation Inspectors are however promoted from the post in which they originally joined and therefore, there was a slight distinction. But, however that was not an issue which need be examined by this Court.



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(6) The grievance of the petitioner has to be addressed since for that particular period where the VI Pay Commission was in force in between 01.01.2006 and 31.12.2015. There appears to be an anomaly in the pay between the Irrigation Inspectors like the petitioner and Junior Assistants/Assistant. When there was a revision of the Grade Pay of Junior Assistants and Assistants, the respondents should have applied their mind independently and automatically applied revision of pay to the Irrigation Inspectors also. But, for some reason, they have not.

(7) Even though the writ petition has been filed in the nature of a certiorarified mandamus, I would issue a mandamus to the 3rd respondent to examine the revision of the pay of the petitioner herein and examine whether the same can be considered at this point of time and forward it to the 2nd respondent. The 2nd respondent may pass their remarks on it and forward it to the 1st respondent. The ultimate responsibility to pass necessary orders lies with the 1st respondent. The 1st respondent may therefore, take a considered decision whether for the period where the VI Pay Commission was in force, the pay



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anomaly of Irrigation Inspectors has to be addressed and the manner in which it should be addressed. The decision taken should rest only with the 1st respondent. I hope that the papers would not bounce from one office to another, but a decision would be taken at the earliest.

- (8) The petitioner shall give a fresh representation enclosing all details and facts, which according to the petitioner are relevant and forward it to the 3rd respondent within a period of four weeks from the date of receipt of a copy of this order. The 3rd respondent may, within a period of four weeks from the date of receipt of such representation, with his remarks and recommendation or any other note, forward it to the 2nd respondent. The 1st respondent may pass orders within a period of four further weeks.
- (9) Since a certiorari is not granted, but a mandamus is issued, the writ petition stands **disposed of**. No costs.

03.08.2023

AP
Internet : Yes

To
1.The Additional Chief Secretary
Finance Department,



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C.V.KARTHIKEYAN, J.,

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