



W.P.No.24769 of 2017

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.24769 of 2017
and
W.M.P.No.26146 of 2017

S.Navaneetha Krishnan

... Petitioner

Vs.

The Greater Chennai Corporation,
Rep. by its Commissioner,
Chennai-600 003.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to disburse terminal benefits payable to the petitioner pursuant to his retirement from his service as Deputy Communication Officer w.e.f., 31.03.2016 after rendering 30 years of unblemished service together with interest at the rate of 18% per annum from 01.04.2016 till the date of actual payment.

For Petitioner : Mr.K.Srinivasa Murthy



W.P.No.24769 of 2017

For Respondent : Mr.G.T.Subramanian
Standing Counsel

ORDER

This Writ Petition has been filed seeking for a direction to the respondent to disburse the terminal benefits payable to the petitioner pursuant to his retirement from his service as Deputy Communication Officer with effect from 31.03.2016, after rendering 30 years of unblemished service, together with interest at the rate of 18% per annum from 01.04.2016 till the date of actual payment.

2.The petitioner was appointed as Computer-cum-Clerk in the respondent/Corporation on 17.06.1986. One S.Paramasivam was appointed as Computer-cum-Clerk on 24.04.1990. Thereafter, as per G.O.Ms.No.172, dated 31.08.1995, the said Paramasivam was appointed as a Deputy Communication Officer, overlooking the petitioner and others. Hence, they filed W.P.No.18309 of 2001 before this Court claiming that the senior Computer Cum Clerk possessing the qualification should be appointed as



W.P.No.24769 of 2017

WEB COPY

Deputy Communication Officer, particularly, when the Junior S.Paramasivam had been appointed as such. On 17.06.2008, the learned Judge held that when the Writ Petitioners had the required qualification as S.Paramasivam and were seniors, the Government was not justified in overlooking their claim. The learned Judge held that the Government could be appoint the petitioner and others as DCO either on deputation as DCO or by direct recruitment by relaxing the rules. The learned Judge held that the petitioner and others had been continuing in the post of Computer-cum-Clerk for over 20 years without any avenue of promotion. Further, the petitioner and one M.S.Renuka filed W.P.Nos.18903 and 18902 of 2008 respectively claiming similar relief. On 11.08.2008, this Court directed the respondents to consider and pass orders on their representations.

3.The learned counsel for the petitioner would submit that on 20.08.2009, the respondent considered their claim and re-fixed their pay in the DCO post scale of Rs. 8000-275-13500 with effect from the date of joining the post of DCO. On 26.08.2009, the learned Judge closed the



W.P.No.24769 of 2017

WEB COPY

Contempt Petition No. 33 of 2009 recording the submissions of the respondent that the orders of this Court had been complied with. On 29.10.2009, the respondent Corporation also granted approval to pay the petitioner and another the revised scale of pay of the DCO post. Pursuant to the same, the respondent by order dated 18.11.2010 granted the revised pay scale in the post of DCO and the petitioner and another had been drawing the pay in the scale in the post of DCO.

4.The learned counsel for the petitioner would submit that on 02.04.2013, the respondent Corporation sent a proposal to the Government stating that as per G.O.Ms.No.181, the Corporation had been given the power to appoint persons in the Class 2 post and no ratification of the Government is necessary. On 23.09.2013, the respondent Corporation passed Resolution No. 707/2013 deciding to amend the service rules. As per the said amendment, the post of Computer-cum-Clerk is to be the feeder category for promotion to the post of Deputy Communication Officer. Overlooking the Judgment in [W.P.No. 18309 of 2001](#) and other connected matters, the Government vide their letter dated 01.10.2014 took exception to



W.P.No.24769 of 2017

WEB COPY

the respondent's action and advised the respondent to cancel the proceedings dated 18.02.2009. Upon noticing the same, the petitioner sent a detailed representation dated 28.04.2016 to the Government explaining the background that led to our appointment as Deputy Communication Officer. Upon receipt of the said letter, the Government by letter dated 29.07.2015 called for the files from the respondent Corporation. The respondent issued proceedings dated 30.03.2016 reducing the pay retrospectively without any notice or hearing. On 31.03.2016, the petitioner retired on attaining the age of superannuation. Thereafter, the petitioner and 3 others filed [W.P.No. 13080 of 2016](#) before this Court and this Court was pleased to stay the proceedings of the respondent dated 30.03.2016 reducing the pay and ordering recovery and the said Writ Petition is pending. Even though the petitioner retired from service way back on 31.03.2016, the respondent have not settled his terminal benefits. Therefore, the petitioner filed WMP No. 33770 of 2016 in [W.P.No. 13080 of 2016](#) to direct the respondent to pay the terminal benefits. On 16.08.2017, when the said Writ Petition along with the WMP came up for hearing, this Court observed that the petitioner can



W.P.No.24769 of 2017

WEB COPY

move a separate Writ Petition for terminal benefits. Hence, this Writ Petition.

5.The learned counsel for the respondent has produced Proceedings No.P12/03516/2023, dated 19.12.2023 in which the case of the petitioner was considered and the petitioner retired from service on 31.03.2016 and he will be paid a sum of 100% DCRG for gratuity amount of Rs.10,35,000/- and subject to the condition any audit objection of recovery dues amount from the petitioner and they also asked the corporation to get an advance stamp receipt to produce before the said Authorities.

6.On a perusal of the records, it is seen that the petitioner was promoted as Deputy Communication officer as per the order of this Court in W.P.No.18309 of 2001. The respondent issued a proceedings dated 30.03.2016 reducing the pay of the petitioner retrospectively without any notice or hearing. The petitioner challenged the same before this Court in W.P.No.13080 of 2016. AS per the orders of this Court. the respondent cancelled the proceedings dated 30.03.2016 and revised the pay scale of the



W.P.No.24769 of 2017

WEB COPY

petitioner. Thereafter, the respondent issued Proceedings No.P12/03516/2023, dated 19.12.2023 stating that the petitioner will be paid a sum of 100% DCRG for gratuity amount of Rs.10,35,000/- and subject to the condition any audit objection of recovery dues amount from the petitioner and they also asked the corporation to get an advance stamp receipt to produce before the said Authorities.

7.Hence, this Court directs the respondent Corporation to proceed in accordance with the law and the petitioner's retirement benefits to be paid as per the Act with interest 10% which stood in the Act. Accordingly, the petitioner is entitled for the said amount along with interest and the same has to be calculated and paid to the petitioner within a period of eight weeks and the amount of Rs.10,35,000/- without interest to be paid within a period of four weeks from the date of receipt of a copy of this order.

This Writ Petition is disposed of. No costs. Consequently, connected



W.P.No.24769 of 2017

Miscellaneous Petition is closed.

20.12.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
mps

To

The Commissioner,
Greater Chennai Corporation,
Chennai-600 003.

V.BHAVANI SUBBAROYAN, J.



WEB COPY



W.P.No.24769 of 2017

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