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W.P. Nos.26987 of 2017, 26988 of 2017, and 26989 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 01.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P. Nos.26987 of 2017, 26988 of 2017, and 26989 of 2017
and WMP.No.28784 of 2017

W.P. Nos.26987 of 2017

M.Kalichelvi

.. Petitioner

Versus

1. Union of India,
Rep. by the Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai,
Chennai 600 002.
2. The Postmaster General,
Western Region (TN),
Coimbatore 641 002.
3. The General Manager (PA & F),
Tamil Nadu Circle,
Chennai 600 008.
4. The Superintendent of Post Offices,
Salem West Division,
Salem 636005.
5. The Registrar,

Page No.1 / 11



W.P. Nos.26987 of 2017, 26988 of 2017, and 26989 of 2017

Central Administrative Tribunal,
Chennai 600 104.

.. Respondents

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the 5th respondent Tribunal made in OA.No.310/00475/2014 dated 22.07.2016 and quash the same, consequent to direct the respondents 1 to 4 to pay the officiating allowance to the petitioner for the officiating service rendered by her for the period from 30.11.2007 to 30.06.2008 and to revise and re-fix the pension of the petitioner by taking into the revised scale applicable to the cadre of HSG-I with all attendant service benefits.

For petitioner : Mr.R.Malaichamy

For respondents

for RR1 to 4 : Mr.V.Balasubramanian, SPC

for R5 : Tribunal

W.P. Nos.26988 of 2017

G.Baby Poongothai

.. Petitioner

Versus

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Tamil Nadu Circle,



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Anna Salai,
Chennai 600 002.

2. The Postmaster General,
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Coimbatore 641 002.
3. The General Manager (PA & F),
Tamil Nadu Circle,
Chennai 600 008.
4. The Superintendent of Post Offices,
Salem West Division,
Salem 636005.
5. The Registrar,
Central Administrative Tribunal,
Chennai 600 104.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the 5th respondent Tribunal made in OA.No.310/00478/2014 dated 04.02.2016 and quash the same consequent to direct the respondents 1 to 4 to pay the officiating allowance to the petitioner for the officiating service rendered by her for the period from 01.07.2008 to 31.12.2008 and to revise and re-fix the pension of the petitioner by taking into the revised scale applicable to the cadre of HSG-I with all attendant service benefits.

For petitioner : Mr.R.Malaichamy

For respondents

for RR1 to 4 : Mr.V.Balasubramanian, SPC
for R5 : Tribunal



W.P. Nos.26987 of 2017, 26988 of 2017, and 26989 of 2017

W.P. Nos.26989 of 2017

A.R.Krishnan

.. Petitioner

Versus

- 1.Union of India,
Rep. by the Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai,
Chennai 600 002.
2. The Postmaster General,
Western Region (TN),
Coimbatore 641 002.
3. The General Manager (PA & F),
Tamil Nadu Circle,
Chennai 600 008.
4. The Superintendent of Post Offices,
Salem East Division,
Salem 636001.
5. The Registrar,
Central Administrative Tribunal,
Chennai 600 104.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the 5th respondent Tribunal made in OA.No.500 of 2014 dated 08.12.2015 and quash the same, consequent to direct the respondents 1 to 4 to pay the officiating allowance to the petitioner for the officiating service rendered by him for the period from 03.01.2011 to 31.07.011 and to revise and re-fix the pension of the petitioner by taking



W.P. Nos.26987 of 2017, 26988 of 2017, and 26989 of 2017

petitioners made representations to the second respondent to revise and re-fix their pensionary benefits on the basis of the last pay drawn by them.

However, the same was rejected. Challenging the same, the petitioners filed OA, which was dismissed. Aggrieved by the same, the present Writ Petitions have been filed.

2. The learned counsel for the petitioners submitted that though the petitioners officiated in the posts of higher cadre i.e. HSG-I as per the instructions of the Postal Department, they were neither paid with duty pay attached to the said post nor granted pension to the said post. Further, they were also denied the revision of pay and pension in accordance with the revised pay as recommended by the VI Pay commission, which is unjustifiable. However, as per Rule 33 CC Pension Rules, the petitioners are eligible for the said benefits.

3. The learned Senior Panel Counsel appearing for the respondents vehemently objected the contention of the petitioners stating that the petitioners were ordered to officiate the posts in the cadre of HSG-I on



W.P. Nos.26987 of 2017, 26988 of 2017, and 26989 of 2017

temporary/ad-hoc basis without any extra remuneration. Only regular employees in the cadre of HSG-II with 3 years of service are eligible for promotion to the HSG-I cadre. Therefore, the Tribunal rightly held that the petitioners are not entitled for the benefits as prayed by them.

4. Heard both sides and perused the materials available on record.

5. It is seen that the petitioners officiated the posts in the cadre of HSG-I on temporary basis and they seek retirement benefits on par with HSG-I cadre. Therefore, it is relevant to rely upon Rule 33 of CCS (Pension) Rules, which reads as follows:

"33. Emoluments

The expression 'emoluments' means basic pay as defined in Rule 9(21) (a)(i) of the Fundamental Rules which a Government Servant was receiving immediately before his retirement or on the date of his death; and will also include non-practising allowance granted to medical officer in lieu of private practice.

Sub rule (21) of Rule 9 of Fundamental Rule reads as follows:



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W.P. Nos.26987 of 2017, 26988 of 2017, and 26989 of 2017

"9(1)(a) Pay means the amount drawn monthly by a Government as-

(i) the pay, other than special pay or pay granted in view of his personal qualifications, which has been sanctioned for a post held by him substantively or in an officiating capacity, or to which he is entitled by reason of his position in a cadre; and

(ii) Overseas pay, special pay and personal pay; and

(iii) And other emoluments which may be specially classed as pay by the President."

EXPLANATION.---Stagnation increment shall be treated as emoluments for calculation of retirement benefits."

6. It is an admitted fact that the petitioners last drawn pay is not on par with the HSG-I cadre. As per 33 CCS (Pension) Rules, the petitioners are entitled for the last pay drawn at the time of retirement. Since at the time of retirement, the petitioners received the pay for the original post, the retirement benefits shall be calculated only based on the said post. Further, the petitioners retired from service in the years 2008, and 2011 and they approached the Tribunal only in 2014 seeking to fix pay on par with HSG-I



W.P. Nos.26987 of 2017, 26988 of 2017, and 26989 of 2017

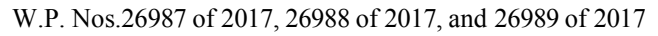
cadre after a huge delay, which is hit by doctrine of laches.

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7. In view of the above, the petitioners are not entitled for the benefits as prayed in these Writ Petitions. Therefore, this Court is not inclined to interfere with the award passed the Tribunal. Accordingly, these Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J] [P.D.B., J]
01.12.2023

Speaking order: Yes/No
Index : Yes/No
pvs



1.The Chief Postmaster General,

Tamil Nadu Circle,

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Western Region (TN),

Coimbatore 641 002.

Tamil Nadu Circle,

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