



W.P.No.18212 of 2017

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.18212 of 2017

and

W.M.P.No19801 of 2017

S.Rajan

... Petitioner

Vs.

1. State of TamilNadu

rep. by Secretary to Government,

Municipal Administration & Water Supply Department,

Fort St. George,

Chennai.

2. The Commissioner of Municipal Administration,

Ezhilagam Annex, 6th Floor,

Chepauk, Chennai 600 005.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to implement G.O.Ms.No.338, Finance Pay Cell Department dated 26.08.2010 and thereby amend the Tamil Nadu



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Municipal Engineering Subordinate Service Rules 1970 as per the GO Ms.No. 338 Finance Pay Cell Department dated 26.08.2010 and there by direct the respondents to dispose of the representation of the petitioner dated 17.02.2017.

For Petitioner : Mr.A.R.Nixon

For Respondents: Dr.T.Seenivasan
Special Government Pleader

ORDER

This petition has been filed seeking for a direction to the respondents to implement G.O.Ms.No.338, Finance Pay Cell Department, dated 26.08.2010 and thereby amend the Tamil Nadu Municipal Engineering Subordinate Service Rules 1970 and to direct the respondents to dispose of the representation of the petitioner dated 17.02.2017.

2.It is the case of the petitioner that the petitioner was initially appointed as Electrician Grade II in Ambasamudram Municipality by direct recruitment. He joined duty on 01.10.1993. He has already qualified Diploma in Civil Engineering. Thereafter,



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he was regularized on 01.10.1994 and on competition of probation on 01.10.1996, he was promoted as Electrician Grade I on 01.10.2007. The petitioner sent a representation on 17.02.2017 to the respondents requesting to amend the service rule as per G.O.Ms.No.338, Finance Pay Cell Department dated 26.08.2010. The said G.O. has been passed in pursuant to the One Man Commission Recommendation of VI Pay Commission. The petitioner is eligible to be promoted as Overseer/Supervisor.

3.On the request of the various Associations following the decisions of the Government of India to merge the unskilled and semi-skilled workers, the One Man Commission has considered the request of the technical employees appointed with ITI Certificate/Practical Experience in the respective trades and recommended to rationalize the trade posts with revision in their scale of pay and change of nomenclature of the posts.

4.It is the further case of the petitioner that the Government



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has carefully examined the recommendation of the One Man Commission and decided to accept the same accordingly. The Government Department/Local Bodies shall be uniformly revised and re-designated as shown below:

Sl.No	Name of the posts	Existing scale of pay + Grade Pay Rs.	Revised scale of pay + Grade Pay Rs.
1	Supervisory posts in the pre revised scale of pay of Rs. 4500 - 7000 re-designated as Supervisor	5200 - 20200 + 2800	9300 - 34800 + 4200
2.	Special Grade Trade posts in the pre revised scale of pay of Rs. 4300-6000 re-designated as Special Artisan	5200 - 20200 + 2800	5200-20200 2800 +
3.	Grade-I (promotion posts) in the pre-revised scale of pay Rs. 4000 - 6000 re-designated as skilled Assistant Grade - I	5200 - 20200 + 2400	5200 - 20200 + 2600
4.	Grade-II (entry level posts) in the pre-revised scale of pay Rs. 3050 4590 re-designated as skilled Assistant Grade -II	5200 - 20200 + 1900	5200 - 20200 + 2000



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Sl.No	Name of the posts	Existing scale of pay + Grade Pay Rs.	Revised scale of pay + Grade Pay Rs.
5.	Other Trade Posts In the pre-revised scales of pay Rs.2750-4400 Rs.2650-4000 Rs.2610-3540 Rs.2550-3200 Re-designated unskilled as	5200 -20200 + 1800 4800 - 10000 + 1650 4800 - 10000 + 1400 4800 - 10000 + 1300	5200-20200 + 1900

5.It is the further case of the petitioner that the Government also directed the trade posts with practical experience. i.e., the category of unskilled assistance shall become defunct as and when the existing incumbents vacates the posts. Further, all future requirements to the posts in all Government Departments/Local Bodies shall be made to the post of skilled Assistant Grade II (Entry Level Posts) from among the ITI Certificate holders only by giving due protection to the existing incumbents. Accordingly, all



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the head of the Departments and Local bodies are directed to adhere to this orders scrupulously and send necessary proposals immediately to the Government for amending the relevant service rules as directed in these orders whenever necessary. Based on the above orders, all the Administrative Departments of the Secretariat are requested to take necessary follow up action and obtained necessary proposals from the head of the Departments under their administrative control and expedite action to issue necessary amendment to the relevant service rules governing in technical categories immediately.

6.Even though the G.O. is passed on 26.08.2010, the implementation is not given effect to. As per the proceedings in Letter No.45529/F3/2010-1, dated 01.10.2012, the 2nd respondent ordered to amend the service rules and re-fixed the scale of pay. But, no amendment of service rules are made as per the said proceedings. The 2nd respondent molded the entire proceedings dated 01.10.2012 and passed another proceedings in Letter



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No.44529/F3/2010-1, dated 21.05.2015 and stated 6 posts as Supervisor, 6 posts as Skilled Assistant Grade-I, 13 posts as converted Skilled Assistant Grade -II and 27 cadre as Unskilled. Even as per the said letter, after amending the service rules by the 1st respondent, the same will be implemented. The respondents failed to take any action till date even though two years lapse from the date of the letter. Hence, this Writ Petition is filed.

7.The 2nd respondent filed their counter stating that the petitioner is working as Electrician Grade -I as per the Tamil Nadu Municipal Engineering Subordinate Service Rules, 1970, Special Rules Section 2, the petitioner's Grade is covered under Class V, Category 4 (Electrician (Water Supply and Drainage) Grade I and the petitioner's next promotion avenue is Electrical Superintendent which comes under Category 3 of Class IV under the said Rules. Further, One Man Commission recommended the merger of the unskilled and semi-skilled employees, now existing posts to re-designate the Grade I and Grade II Trade posts as skilled Assistant



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Grade I and Grade II, re-designating various other posts those are working under the Municipal Departments as well as revision of their pay scale, etc.,

8. Based on the said recommendations, the Government issued G.O.No.338, dated 26.08.2010. It is pertinent to note that nowhere in the G.O. mentioned that the proposal amendment under the said G.O. has to be carried out within the time framed. Furthermore, the petitioner cannot take shelter under the said G.O. only on the ground that the Government has already revised the pay scale to the mentioned posts in the year of 2012 itself. Therefore, including the petitioner, all other persons who are working under the Municipality Department were enjoying the benefit of revised scale of pay and therefore, the contention of the petitioner that the G.O. was not implemented is not justified. Further, based on the proceedings of the 2nd respondent dated 01.10.2012, the petitioner's pay scale was revised as on 21.09.2013, more particularly, the tentative list was published by the



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respondents in accordance with the existing rules. The 2nd respondent had taken sincere attempts to implement the G.O.Ms.No.338, dated 26.08.2010 followed by the amendments proposed thereon for which the 2nd respondent initiated the amendment process through order dated 21.05.2015, however, challenging the initiation of amendments, the various individuals have filed Writ Petitions before this Court. Therefore, the process of amendment could not be done effectively and will be initiated the amendment proposed in the abovesaid G.O. immediately after completion of the said Writ Petitions.

9.The learned counsel appearing for the petitioner would submit that the petitioner sent a representation on 17.02.2017 to the respondent requesting to amend the service rule as per G.O.No.338 dated 26.08.2010. The said G.O. has been passed in pursuance of the One Man Commission Recommendation of VI Pay Commission. The petitioner is eligible to be promoted as



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Overseer/Supervisor. On the request of the various Associations following the decisions of the Government of India to merge the unskilled and semi skilled workers, the One Man Commission has considered the request of the technical employees appointed with ITI Certificate/Practical Experience in the respective trades and recommended to rationalize the trade posts with revision in their scale of pay and change of nomenclature of the posts.

10.The learned counsel appearing for the petitioner would submit that the Government has carefully examined the recommendation of the One Man Commission and decided to accept the same accordingly. The Government also directed the trade posts with practical experience. i.e., the category of unskilled assistance shall become defunct as and when the existing incumbents vacates the posts. Further all future requirements to the posts in all Government departments/Local Bodies shall be made to the post of skilled Assistant Grade II (Entry Level Posts) from among the ITI Certificate holders only by giving due



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protection to the existing incumbents. Accordingly, all the head of the departments and local bodies are directed to adhere to this orders scrupulously and send necessary proposals immediately to the Government for amending the relevant service rules as directed in these orders whenever necessary. Based on the above orders, all the administrative department of the Secretariat are requested to take necessary follow up action and obtained necessary proposal from the head of the departments under their administrative control and expedite action to issue necessary amendment to the relevant service rules governing in technical categories immediately.

11.Further, the learned counsel appearing for the petitioner would submit that as per the proceedings dated 01.10.2012, the 2nd respondent ordered to amend the service rules and re-fix the scale of pay. But, no amendment in the Service Rules has been made as per the proceedings till date. But, the 2nd respondent molded the entire proceedings dated 01.10.2012 and passed another order



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dated 21.05.2015 and stated 6 posts as Supervisor, 6 posts as Skilled Assistant Grade-I, 13 posts as converted Skilled Assistant Grade -II and 27 cadre as unskilled even as per the said letter after amending the service rules by the 1st respondent, the same will be implemented. The respondents failed to take any action even though two years lapse from the date of the letter.

12.The learned Special Government Pleader appearing for the respondents would submit that based on the said recommendations, the Government issued G.O.No.338, dated 26.08.2010. It is pertinent to note that nowhere in the G.O. mentioned that the proposal amendment under the said G.O. has to be carried out within the time framed. Further more, the petitioner cannot take shelter under the said G.O. only on the ground that the Government has already revised the pay scale to the mentioned posts in the year of 2012 itself. Therefore, all other



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persons who are working under the Municipality Department were enjoying the benefit of revised scale of pay and the contention of the petitioner that the G.O. was not implemented is not justified. Further, based on the proceedings of the 2nd respondent dated 01.10.2012, the petitioner's pay scale was revised as on 21.09.2013, more particularly, the tentative list was published by the respondents in accordance with the existing rules. The 2nd respondent had taken sincere efforts to implement G.O.Ms.No.338, dated 26.08.2010, however, challenging the initiation of amendments, the various individuals have filed Writ Petitions before this Court. Therefore, the process of amendment could not be done effectively and will be initiated the amendment proposed in the abovesaid G.O. immediately after completion of the said Writ Petitions.

13.Heard the learned counsel appearing on either side and perused the materials available on record.



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14. On a perusal of the documents, it is seen that the petitioner is working as Electrician Grade I. As per G.O.Ms.No.338 dated 26.08.2010, the petitioner sent a representation on 17.02.2017 to the respondents requesting to amend the service rules. The said G.O. has been passed in pursuant to the One Man Commission Recommendation of VI Pay Commission. The petitioner is eligible to be promoted as Overseer/Supervisor. The Government also directed the trade posts with practical experience, i.e., the category of unskilled assistance shall become defunct as and when the existing incumbents vacates the posts. Further, all future requirements to the posts in all Government Departments/Local Bodies shall be made to the post of skilled Assistant Grade II (Entry Level Posts) from among the ITI Certificate holders only by giving due protection to the existing incumbents. Accordingly, all the head of the Departments and Local bodies are directed to adhere to this orders scrupulously and send necessary proposals immediately to the Government for amending the relevant service rules as



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directed in these orders whenever necessary.

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15. Based on the above orders, all the Administrative Departments of the Secretariat are requested to take necessary follow up action and obtained necessary proposals from the head of the Departments under their administrative control and expedite action to issue necessary amendment to the relevant service rules governing in technical categories immediately.

16. Even though the G.O. is passed on 26.08.2010, the implementation is not given effect to. As per the proceedings dated 01.10.2012, the 2nd respondent ordered to amend the service rules and re-fixed the scale of pay. But, no amendment of service rules are made as per the said proceedings. After amending the service rules by the 1st respondent only, the same will be implemented. The respondents failed to take any action till date even though two years lapse from the date of the letter. Further, the name of the petitioner was included in the list of Electrician Grade I in Ambasamudram Municipality as Serial No.7. Further, nowhere in the G.O. mentioned that the proposal amendment



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under the said G.O. has to be carried out within the time framed.

The petitioner cannot take shelter under the said G.O. only on the ground that the Government has already revised the pay scale to the mentioned posts in the year of 2012 itself. After the amendment in the rules only, the tentative list would be finalised.

17.In the meanwhile, the learned counsel appearing for the petitioner would submit that the Commissioner of Ambasamudram Municipality by order dated 05.10.2023 has issued recommendations for promotion of the petitioner as Serial No.7.

Hence, this Writ Petition is disposed of with a direction to the 2nd respondent to forward the proposals to the 1st respondent /Government to consider the same immediately and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently,



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connected Miscellaneous Petition is closed.

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Index : Yes/No

Speaking order:Yes/No

Neutral citation:Yes/No

mps

To

1. The Secretary to Government,
State of TamilNadu,
Municipal Administration & Water Supply Department,
Fort St. George,
Chennai.
2. The Commissioner of Municipal Administration,
Ezhilagam Annex, 6th Floor,
Chepauk, Chennai 600 005.



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V.BHAVANI SUBBAROYAN, J.

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