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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.07.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)Nos.1281 to 1286 of 2013 and 135 to 138 of 2014 and
M.P.(MD)Nos.2, 2, 2, 2, 2 and 2 of 2013, 1, 1, 1 and 1 of 2014

W.A.(MD)No.1281 of 2013:-

1.The Child Development Project Officer,
Child Development Project Office,
Thirupparankundram (E) Nilaiyur,
Madurai.

2.The District Treasury Officer,
Collectorate, Madurai.

3.The Sub Treasury Officer,
Assistant Sub-Treasury Office,
Madurai (South),
Collector Office, Madurai.

4.The Secretary to Government,
Department of Social Welfare Nutrition (NMS) Department,
Secretariat, Chennai. ...Appellants

-Vs.-

Subbuiah

...Respondent

PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to
set aside the order dated 13.07.2012 made in W.P.(MD)No.2925 of 2012.



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For Appellants : Mr.T.Amjad Khan
Government Advocate
For Respondent : No Appearance

COMMON JUDGMENT

(Judgment of the Court was delivered by **DR.ANITA SUMANTH, J.**)

The appellants in these Writ Appeals are the Child Development Project Officer and the District Forest Officer. The respondents/Writ Petitioners are Drivers in the aforesaid two departments and had sought a Mandamus directing the respondents in the Writ Petition to re-fix Selection and Special Grade Scales of Pay, as indicated in Schedule-II of the Tamil Nadu Revised Scales of Pay Rules 1998 (1998 Rules). The slab at which they sought re-fixation was 5000-150-8000 and 5500-175-9000 respectively, with consequential monetary benefits and arrears with effect from 01.01.1996.

2.The Writ Court has noted the dates of entry into service, grant of Selection Grade, grant of Special Grade and the retirement of the respondents by way of the following tabulation:



Sl. No.	Name of the petitioner	Date of entry into service	date of grant of Selection Grade	date of grant of Special Grade	date of retirement
1.	Subbuiyah (W.P.No. 2925 of 2012)	20.11.1984	20.11.1994	20.11.2004	31.05.2008
2.	Santhanam (W.P.No.2926 of 2012)	12.03.1976	12.03.1986	12.03.1996	31.01.2009
3.	Govindasamy (W.P.No.2927 of 2012)	16.09.1981	16.09.1991	16.09.2001	30.09.2005
4.	Panchavarnam (W.P.No.2928 of 2012)	04.04.1983	04.04.1993	04.04.2003	31.10.2010
5.	S.Chandasekaran (W.P.No.2939 of 2012)	28.04.1993	05.01.2004		Petitioner is in service
6.	R.Ravindranathan (W.P.No.2940 of 2012)	02.03.1998	02.03.20		Petitioner is in service
7.	P.Chandrasekaran (W.P.No.2942 of 2012)	05.11.1990	05.11.2000		Petitioner is in service

3.Relying on G.O.Ms.No.162, Finance (Pay Cell) Department dated 13.04.1998, the Writ Petitioners had contended that there was no parity that had been followed in grant of ordinary pay and correspondingly Selection and Special Grade pay.

4.The Writ Court accepted the prayer following the order



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passed by a Division Bench in a batch of Writ Appeals in W.A.Nos.383 to 391 and 393 of 2009 dated 01.09.2009. That order was subject matter of a Review Application and by order dated 15.04.2021, the Review Applications were allowed following the ratio of the judgment of the Hon'ble Supreme Court dated 18.12.2019 in Civil Appeal Nos. 9533-9537 of 2019 and batch in *P.Singaravelan and others vs the District Collector, Tiruppur and others*.

5.The question that arose therein was identical to the present matter and in conclusion, the Division Bench has directed that the fixation of pay be allowed to the Petitioners therein as per Sl.No.6 of Schedule-II, which fixes the pay scales at Rs.4000-100-6000 and 4300-100-6000.

6.In the interest of clarity, the original order in Writ Appeal had fixed the pay scales in terms of Sl.No.8 at Rs.5000-8000 (Selection Grade) and Rs.5500-9000 (Special Grade) and this stood modified to the scales of pay set out in Sl.No.6, being Rs.4000-100-6000 (Selection Grade) and 4300-100-6000 (Special Grade).



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7.The judgment in P.Singaravelan was followed in a batch of Writ Appeals filed by the Department of Sericulture in W.A.No.1398 of 2013 and batch by a decision dated 08.07.2015. The operative portion of the decision, being paragraphs 42 and 43, is set out hereunder:

“42. Therefore, in the result, all the writ petitions filed by the individual employees claiming Selection Grade scale of pay of Rs. 5000-8000 and Special Grade pay scale of Rs.5500-9000 are liable to be dismissed. However, there are a few writ petitions such as W.P.Nos. 23550 of 2010, 5498 of 2012 and 30616 of 2012, where the employees claim that they are not even granted the admissible Selection Grade and Special Grade scales pay of Rs.4000-6000 and Rs.4300-6000 respectively.

43. Therefore, with a clarification that all the petitioners in the writ petitions and the respondents in the writ appeals are entitled only to a Selection Grade scale of pay of Rs.4000-100-6000 and a Special Grade scale of pay of Rs.4300-100-6000, but not more than that, all the writ petitions filed by the employees are dismissed. All the writ appeals filed either by the State Government or by various Heads of Departments or by various officers of the Government or by various Local Bodies or Boards or Corporations, shall stand allowed. There will be no order as to costs.”

8.In dealing with that batch, the Bench had dealt with the specific argument of discrimination that had found favour by Mr.Justice D.Hariparanthaman in the order impugned in appeal now and at Paragraphs 27 and 28 they state as follows:

27. Therefore, the Writ Petitioners in the present batch of cases cannot rely upon [Article 14](#), when this Court never went into the question (except in the decision of D.Hariparanthaman,J) as to



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whether the drivers are entitled to a selection grade scale of pay of Rs. 5000/- and a special grade scale of pay of Rs.5500/-.

28. As rightly pointed out by the Learned Advocate General, the pressure that keeps mounting upon this Court due to the huge pendency and the tendency that results therefrom, to dispose of at least those cases which are covered by earlier decisions, even on the first or second date of hearing, has actually led to this position. Therefore we cannot sweep the core issue under the carpet and reiterate the same mistakes by taking recourse to [Article 14](#). Hence we reject the first contention advanced on behalf of the employees.”

9.In the result, these Writ Appeals are allowed. No costs.

Consequently, connected miscellaneous petitions are closed.

[A.S.M.J.] & [R.V.J.]

14.07.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes
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