



W.P(MD)No.7673 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:27.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.7673 of 2018

and

W.M.P(MD)No.7292 of 2018

G.George Nadar

... Petitioner

Vs.

1.Union of India,
Through its Secretary,
Ministry of Defence,
South Block,
New Delhi – 110001.

2.Ministry of Defence,
(Finance /Border Roads),
Through Controller of Defence(Buildings & Roads) (CDA(BR))
South Block, New Delhi 110001.

3.The Director General,
Border Roads Organization,
Seema Sadak Bhawan,
Ring Road, Delhi Cantt,
New Delhi – 110010.

4.The Principal Controller of Defence Accounts,
(Buildings & Roads),
Seema Sadak Bhawan,
Ring Road, Delhi Cantt,
New Delhi 110010.



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5.The Chief Engineer,
Project Setuk,
Pin:931713,
C/o.99 APO.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 09.09.2015 issued by the third respondent in his letter No.15183/DGBR/NE/CGN/62/EIC 'C' and quash the same and to direct the respondents to revise the pay of the petitioner in the light of the 5th and 6th Pay Commission Reports from 01.01.1996 and 01.01.2006 respectively and to pay the consequential arrears arising thereon together with the continuity of service.

For Petitioner :Mr.M.P.Senthil

For Respondents :Mr.G.Rajaraman

ORDER

This writ petition has been filed to quash the impugned order, dated 09.09.2015, issued by the third respondent in his letter No.15183/DGBR/NE/CGN/62/EIC 'C' and to direct the respondents to revise the pay scale of the petitioner in the light of the 5th and 6th Pay Commission Reports from 01.01.1996 and 01.01.2006 respectively and



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to pay the consequential arrears arising thereon together with the continuity of service.

2. The case of the petitioner is that the petitioner was appointed on 15.07.1964 as “Overseer” in General Reserve Engineer Force(GREF) at a basic pay of 110-140. After 35 years of service, the petitioner got retirement on 31.12.1998 as "Superintendent". Initially, the GREF was under the control of Ministry of Shipping and Transport and subsequently, the GREF is under the control of Ministry of Defence ie., the second respondent herein. Moreover, there are no specific Rules for recruitment of “C” and “D” category of employees in GREF. After that, in 1982, the GREF formulated its own Rules for the recruitment and promotion for the 'C' and 'D' category employees. The post of Overseer comes under the category 'C' in GREF. In the year 1983, the petitioner was promoted to Superintendent Buildings and Roads-Grade II(Supdt.-B-II). The GREF Group 'C' and 'D' Recruitment Rules, 1982, was partially amended in the year 1996. As per the Rules, the post of Overseer was to be filled up 10% by direct recruitment and balance 90% by promotion from different posts. The same were subsequently amended and it was changed to 80% by direct recruitment and 20% by



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promotion and essential technical qualification for direct recruitment to the post of Overseer is Diploma in Engineering. The report of 6th Central Pay Commission was published which came to be implemented on 01.01.2006 by enacting the Central Civil Service(Revised Pay) Rules, 2008 by Gazette Notification No.G.S.R.622 . Dated 29.08.2008. In the 6th Central Pay Commission, the post of Overseer has been upgraded and merged with the promotional post of Superintendent BR Grade II and fixed Rs.5000- 8000/-. After implementation of the 6th Pay Commission, the Overseers working in the Border Road Organization ((in short 'BRO'), who are having Diploma in Engineering had been allowed the pay scale of Rs.5000- 8000/- w.e.f. 01.01.2006. Earlier, GREF had fixed the petitioner's scale of pay at Rs.6500-200-10500 by taking into account the recommendation of the 5th Central Pay Commission by considering the petitioner's time bound service of more than 15 years and the petitioner might have received approximately 50% higher pay and consequentially, there will be an increase of about 35% increase in the petitioner's pension. The wrong fixation of pay scale have caused great financial loss to the petitioner. Hence, the petitioner sent a number of representations to the respondents on different dates, for which, the fifth respondent sent a reply, dated 22.04.2016, refusing to grant the revised



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scale of pay without any justifiable reason contrary to the order of the Delhi High Court.

3. The learned counsel appearing for the petitioner would submit that already the petitioner filed a writ petition before a Delhi High Court in W.P(C).No.2755 of 2013 and sought to fix a higher pay scale. Likewise, similarly placed persons like that of the petitioner also filed a writ petition before the Delhi High Court in W.P(C)No.5485 of 2012. The Delhi High Court after adjudicating the entire issue passed an order to fix the revised pay. Immediately thereafter, the petitioner sent a representation and the said representation was rejected contrary to the order passed by the Delhi High Court. Hence, the petitioner is entitled to succeed and accordingly, prays for allowing of this writ petition.

4. The learned counsel appearing for the respondents would submit that no doubt, the 6th Pay Commission report was implemented with effect from 01.01.2006 and the pay of Diploma holding Overseers and Superintendent BR-Gde-II was fixed at Rs.5000-8000 retrospectively with effect from 01.01.1996 for fixation of pay only and actual benefits accrued with effect from 01.01.2006. Hence, the



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petitioner's pension was revised to Rs.6062/- vide PPO No.C/Corr/6th/CPC/33491/2012, dated 26th July, 2012. Further the petitioner's claim of pay scale for Rs.6500-10500/- w.e.f 01.01.1996, cannot be accepted for want of Government Order. He has not supported his claim with any Government Order for grant of pay of Rs.6500-10500 applicable to GREF employees similar to the petitioner. Further, in terms of the order passed in W.P(C).No.2755 of 2013 by the Delhi High Court, pension fixation was done and revised PPO has been issued. The pay of the petitioner has been fixed correctly as per the prescribed Rules. The recommendation of 5th and 6th Central Pay Commission has been meticulously implemented with the approval of the concerned authorities. The petitioner has been correctly granted pay scale and there is no ambiguity in grant of pay scales to the petitioner and prays for dismissal of this writ petition.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. Admittedly, the petitioner entered into service on 15.07.1994 as Overseer and retired from service in the year 1998. However, the



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grievance of the petitioner is that the recommendation of the 6th Pay Commission was not properly implemented for enhancing the pay of the petitioner. Though the petitioner claimed that he is entitled for the scale of pay Rs.6500-200-10500 w.e.f. 01.01.1996 and already, he filed a writ petition before the Delhi High Court and succeeded in the said writ petition, in order to avail benefit of the said order, the petitioner has made a representation and the same was rejected vide the impugned order, the claim of the petitioner was not supported by any document or any Government Order. In the absence of any supporting document, the claim of the petitioner is not maintainable. However, without approaching the Delhi High Court, filing a writ petition before this Court, is not sustainable and therefore, the writ petition is dismissed. No Costs. Consequently, connected miscellaneous petition is also closed.

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NCC:Yes/No
Index: Yes/No
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