



W.P.(MD)No.7067 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.7067 of 2017

and

W.M.P(MD)No. 5593 of 2017

R.Jeganath Singh

... Petitioner

Vs.

1.The Chief Engineer,
Agricultural Engineering Department,
487, Anna Salai,
Nandanam, Chennai – 600 035.

2.The Superintending Engineer,
Agricultural Engineering Department,
61, TPK Road,
Madurai- 625 011.

3.The Executive Engineer,
Agricultural Engineering Department,
Madurai Main Road,
Theni – 625 531.

4.The Assistant Executive Engineer,
Agricultural Engineering Department,
Indira Nagar, Uthamapalayam,
Theni – 625 533.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records relating to the Impugned order passed by the 3rd respondent in his proceedings in A/464/2014 dated 10.09.2015 and consequently the order passed by the 4th Respondent by his proceeding Letter No.E/456/2003 dated 21.04.2016 based on his earlier proceeding in C.456/2003 dated 10.12.2007 which is confirmed by the 1st Respondent in his proceeding AP1/19500/2016 dated 30.01.2017 and to quash the same and consequentially to direct the Respondents to revise the pension of the Petitioner by granting Selection Grade Assistant on and from 03.03.1994 forenoon and to quash the same.

For Petitioner : M/s.P.Jessi Jeeva Priya
For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This writ petition is filed challenging the impugned order, dated 10.09.2015 and the consequential order, dated 21.04.2016 based on his earlier proceedings, dated 10.12.2007 which is confirmed by the 1st Respondent vide, order, dated 30.01.2017 and consequentially direct the Respondents to revise the pension of the Petitioner by granting Selection Grade Assistant on and from 03.03.1994.



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2. Heard M/s.P.Jessi Jeeva Priya, learned counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader, appearing for the respondents. Perused the material documents available on record.

3. The petitioner was appointed as typist in the 4th respondent office on 04.09.1965. Thereafter, the petitioner was appointed Upper Division Typist (UD) under Flexible Complementing Scheme, vide order, dated 19.05.1981 in the scale of pay Rs.400-15-490-20-650-25-700, with effect from 01.10.1978. Thereafter, he was granted Special Grade Typist from 01.04.1987. As per letter, dated 28.11.1990, the orders issued in G.O.Ms.No.491 P & AR Department, dated 08.06.1987 shall take effect from 01.10.1978. As per the above letter, the petitioner's service as Selection Grade Typist has to be counted on and from 01.10.1978. Thereafter, the petitioner's name was included in the promotion panel for the post of Assistant on 15.03.1993 and promoted as Assistant on 16.02.1994 and the petitioner joined duty as Assistant on 03.03.1994. The petitioner has given an option to remain in the scale of pay of Rs.1320-30-1560-40-2040 upto



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02.02.1994 and refix the scale of pay from 03.03.1994. Hence, the petitioner's scale of pay is Rs.1320-30-1560-40-2040 from 03.03.1994 forenoon by an order, dated 27.05.1994. Through the 5th pay commission, dated 01.01.1996 the petitioner's scale of pay was revised and granted selection grade assistant on 31.03.1997 and fixed scale of pay as Rs.5000-100-8000. Thereafter, he was granted Selection Grade Assistant and retired from service on 31.03.2003, after completing 37 years of service.

4. After retirement, the petitioner did not receive any monetary benefits and pension. Hence, he made several representations. The 4th respondent, vide proceedings, dated 10.12.2007 cancelled the Selection Grade granted to the petitioner in the post of Assistant and calculated the Selection Grade Typist service from 01.04.1987 to 02.03.1994 and Assistant from 03.03.1994 to 31.03.1997 and refixed the scale of pay from 01.04.1997 in the post of Assistant and ordered Selection Grade instead of Special Grade on and from 31.03.1997.

5. The contention of the petitioner is that the respondents should calculate the service from 01.10.1978 for calculating selection grade and special



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grade. Since the respondents have not granted, the petitioner had submitted representations, dated 06.03.2015 and 31.01.2015 and filed W.P(MD)No.10881 of 2015. This Court, vide order, dated 01.07.2015, directed to consider and pass orders. The respondents have passed the impugned order declining the claim of the petitioner. Aggrieved over the same, the present writ petition is filed.

6. The respondents have filed counter stating that the revision of pay can be calculated only, if there is a difference in scale of pay in the lower post and the higher post. Before 01.04.1987 the petitioner was receiving difference scale which is not identical or higher comparing to the service rendered in between 01.04.1987 to 03.03.1997. As per clarification issued by the Government letter, dated 26.09.1997, there is no illegality or arbitrariness in calculating the petitioner's 10 years service from 01.04.1987 in the Assistant post and hence prayed to dismiss the writ petition.

7. After hearing the rival submission this Court has given its anxious consideration. It is seen that the petitioner has retired on 31.03.2003 and the pay fixation order was passed on 10.12.2007. The earlier writ petition filed was filed



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in the year 2015 and the present writ petition is filed in the year 2017. The petitioner has filed this petition after lapse of 10 years and the earlier writ petition was filed after a lapse of 8 years. If the petitioner is aggrieved, the petitioner ought to have challenged the impugned order dated 10.12.2007 immediately. Therefore, this Court is not inclined to entertain the writ petition on the ground of delay and laches.

8. On merits also the petitioner is not entitled to since the Government letter, dated 26.09.1997 has clarified the issue and has declined the benefits to the petitioner. Since there is no illegality in the impugned order the writ petition is liable to be dismissed.

9. Accordingly, this Writ Petition is dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 7067 of 2017**

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