

HONOURABLE SRI JUSTICE E.V.VENUGOPAL

WRIT PETITION No.16060 of 2019

ORDER:

1 The petitioner filed the present writ petition seeking to declare the action of the second respondent in issuing Corrigendum-I to the Directive 29, vide proceedings dated 12.01.2015 reducing the Grade Pay of Tailor Grade – III as 1900 instead of 2000 and consequential orders of the third respondent vide proceedings dated 12.07.2019, which is followed by the adjutant who is the Sub-Ordinate Authority of the fourth respondent vide proceedings dated 16.07.2019 is illegal and arbitrary and consequently to direct the respondents to fix the pay of the petitioner with Grade Pay of 2000 with effect from 27.08.2006 to 27.04.2016.

2 The case of the petitioner is that pursuant to the notification dated 04.01.2006 for recruitment of Ancillary Staff (Male only) in Railway Protection Force (RPF) / Railway Protection Special Force (RPSF) for 16 vacancies like Kahar / Water Carrier (Constable Cook), Safai Wala, Washer Man (Dobhi), Barber, Tailor, the petitioner applied to the post of Tailor and he was selected for the said post and after completion of all the recruitment process he was given call letter for initial training for Ancillary Staff in RPSF with effect from 01.07.2006 at 5th Battalion/RPSF/Trichy for a period of two months vide proceedings dated 12.06.2006. After

completion of successful training for a period of eight weeks from 01.07.2006 to 26.08.2006, the petitioner was appointed as Tailor in the pay scale of Rs.3050-75-3950-4590, vide Battalion Order No.167/2006 dated 19.09.2006. The petitioner further submits that as per the Railway Protection Force Rules, 1987, the Ancillary Staff was included under Schedule I (V) as members of the force with various designations and that the salaries of Constable Tailors (Ancillary Staff) are given on par with the Constables (Executive). Petitioner further submits that the pay scales of all the railway employees were revised with effect from 01.01.2006.

3 Petitioner further submits that though the RPF Rules, 1987 specifically state that the Ancillary Staff will get same salary as that of the Enrolled Members of the force in Executive Wing, the respondents have not implemented the same to the Ancillary Staff as there is no clear proceeding in the Pay Revision Orders; therefore, the salary of the petitioner has been fixed less than the Executive Wing constables except for the Grade Pay of Rs.1900 duly fixing pay scale of Rs.6070 with effect from 01.07. 2007 with increment of three percentage on 01.07.2008 pay scale of Rs.6310, further adding three percentage, his pay was fixed as on 01.07.2009 pay scale of Rs.6560 and further he was given pay scale of Rs.6820 as on 01.07.2010 duly fixing his initial pay band/scale of Rs.5830 with effect from 01.07.2006 with Grade Pay of

Rs.1900 which is shown in his service register. It is further submitted that the Railway Board has issued Proceedings dated 03.07.2013 accepting the Pay Scales and Grade Pay of the Sixth Pay Commission. However, the fourth respondent in pursuance of the direction of the first respondent has issued proceedings to the effect that existing Grade Pay (Rs.1900) of Driver, Tailor and Cobbler may remain in force till finalization from pay commission Directorate. Subsequently, on his application, the category of the petitioner was changed from Ancillary to Constable (Executive) in RPSF, vide proceedings dated 18.07.2016. Petitioner further submits that he made a representation on 26.11.2018 to the third respondent for grant of Grade Pay of Rs.2000 from 27.08.2006 on which date he has completed his training for the post of Tailor and also to grant MACP with Grade Pay of Rs.2400 which is payable to the Head Constables since he has not got promotion. However, the third respondent instead of granting the benefit of 2000 Grade Pay from 27.08.2006, has rejected the claim stating that his pay cannot be fixed in the post of Tailor Grade III with Grade Pay of Rs.2000 instead of fixing Rs.1900 Grade Pay, vide proceedings dated 12.07.2019 based on the Corrigendum – I to the Directive 29, vide proceedings dated 12.01.2015 of the second respondent. Questioning the same, the petitioner filed the present writ petition.

4 The fourth respondent filed counter affidavit on behalf of all the respondents stating that the designation of Head Tailor and Tailor have been notified as Ancillary Staff in Schedule – I(V) at S.No.46 and 60 respectively. The Board's Letter No.PC-VI/2008/I/5/8 dated 03.07.2013 at para No.2 (a) it is mentioned that "All the posts of Ancillary Staff of RPF/RPSF in pre-revised pay scales Rs.2610-3540, 2650-4000 and 2750-4400 may be placed in PB-I with Grade Pay Rs.2000 with effect from 01.01.2006," but not included the pay scale of tailor i.e.3050-4590. It is further submitted that till his designation remains in Schedule-I (V), his pay has been fixed on par with ancillary staff. On 31.10.2008, Rule 78.1 of RPF Rules has been amended vide GSR 803 (E) as "ancillary staff as specified in Schedule-I, shall draw the same scale of pay as is admissible to other enrolled members holding that rank" occurring at the end shall be omitted. Accordingly the petitioner's pay has been modified as per amended rules. It is further submitted that as per GSR No.803, which states about amendment of Rule 78.1 of RPF Rules, 1987, the petitioner is not entitled to draw the pay on par with enrolled members of the force. Hence prayed to dismiss the writ petition.

5 The learned counsel for the petitioner submits that the Railway Board has issued proceedings accepting the Pay Scales and Grade Pay of the Sixth Central Pay Commission and the

President of India has also given assent directing that 'All the posts of Ancillary Staff of RPF / RPSF in pre-revised Pay Scales may be placed in PB1 with Grade Pay Rs.2000 with effect from 01.01.2006.'

6 The initial appointment of the petitioner was Tailor with effect from 27.08.2006. As per Rule 78.1 of 1987 Rules, the Ancillary Staff as specified in Schedule I shall draw the same scale of pay as is admissible to other members holding that rank. As per the notification the pay scale for the post of Tailor was Rs.3050-4590. It is an admitted fact that the petitioner was granted Grade Pay of Rs.1900 in the revised pay scales 2008, which was effective from 01.07.2006.

7 As per Letter No.PC-VI/2008/I/5/8 dated 03.07.2013 of the Director of Pay Commission – II, Railway Board, had extended the benefit of Grade Pay of Rs.2000/- with effect from 01.01.2006 to all the ancillary staff of Para Military Force in pre-revised pay scale of Rs.2610-2540, 2650-4000 and 2750-4400 but not included pre-revised pay scale of Tailor i.e. 3050-4590.

8 The contention of the respondents is that Rule 78.1 of RPF Rules, 1987 was modified on 31.10.2008 and as per amended rules, the pay of the petitioner was revised and as per GSR No.803, the petitioner is not entitled to draw the pay on par with enrolled members of the force.

9 To the representations made by the petitioner, the Railway Board after detailed examination of the issue, had issued the impugned Direction - 29 (Revised) dated 12.01.2015 stating that posts Constable (Tailor) and Constable (Cobbler) mentioned in Directive - 29 (Revised) may be treated as Tailor Grade III and Cobbler Grade III Respectively and accordingly Grade Pay for Tailor Grade II and Cobbler Grade III was treated as Rs.1900/- instead of 2000/-. The petitioner was not getting the Grade Pay of Rs.2000/- from the beginning i.e. from the date of his initial appointment in the year 2006. Now after his conversion of post as Constable (Tailor) in the year 2016 only he is getting the said benefit. So, after lapse of 10 years and after his conversion to the post of Constable (Tailor), the petitioner now cannot question the Directive of the Department. The petitioner may be justified in taking a contention that all the posts of Ancillary Staff of RPF/ RPSF in pre-revised pay scales of Rs.2610-3540, 2650-4000 and 2750-4400 may be placed in PB-1 with Grade Pay of Rs.2000/- with effect from 01.01.2016. But it is to be noticed that the pay scale of 3050-4590 was not included in the above schedule. Since the Board has issued Corrigendum to the Directive, which is a policy decision, the petitioner cannot question the same. Hence I see no merits in this writ petition.

10 The writ petition is accordingly dismissed. No order as to costs. Miscellaneous petitions if any pending in this writ petition shall stand dismissed.

E.V.VENUGOPAL, J.

Date: 16.02.2023

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