



W.P.Nos.857, 859 & 867 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.857, 859 & 867 of 2022
and W.M.P.Nos.936, 940 & 944 of 2022

W.P.No.857 of 2022 :-

K.Babu

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by the Secretary to Government,
Home Department,
Fort St. George,
Chennai – 600 009.
2. The Director General Of Police,
Office of the Directorate General of Police,
Santhome High Road,
Chennai – 600 004.
3. The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai,
Chennai – 600 007.
4. The Branch Officer,
O/o. The Accountant General
(Accounts & Entitlement)
Pension Section,
Teynampet,
Chennai – 600 018.

... Respondents



W.P.Nos.857, 859 & 867 of 2022

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records which culminated in passing the impugned order issued by the fourth respondent order P05/3/10529826/ADK/1140-52965 dated 29.06.2021 and quash the same and consequently, directing the fourth respondent to approve the pension proposal of the petitioner sent by the third respondent vide Rc.No.Pen.1(2)/63/11644/2020 dated 22.04.2021 and accordingly sanction and pay pension to the petitioner.

W.P.No.859 of 2022 :-

S.Balu

... Petitioner

Vs

1. The State of Tamil Nadu
Rep. by the Secretary to Government,
Home Department,
Fort St. George,
Chennai – 600 009.
2. The Director General Of Police,
Office of the Directorate General of Police,
Santhome High Road,
Chennai – 600 004.
3. The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai,
Chennai – 600 007.
4. The Branch Officer,
O/o. The Accountant General
(Accounts & Entitlement)
Pension Section,
Teynampet,
Chennai – 600 018.

... Respondents



W.P.Nos.857, 859 & 867 of 2022

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records which culminated in passing the impugned order issued by the fourth respondent order P05/1/10529827/Rn/ADK/63 dated 24.06.2021 and quash the same and consequently, directing the fourth respondent to approve the pension proposal of the petitioner by taking into account the pay fixation done by the third respondent office order dated 21.09.2020 and accordingly sanction and pay pension to the petitioner.

W.P.No.867 of 2022 :-

B.Sekar

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by the Secretary to Government,
Home Department,
Fort St. George,
Chennai – 600 009.
2. The Director General Of Police,
Office of the Directorate General of Police,
Santhome High Road,
Chennai – 600 004.
3. The Joint Commissioner of Police,
West Zone (Greater Chennai Police)
Kamarajapuram, Ambathur,
Chennai – 600 053.
4. The Branch Officer,
O/o. The Accountant General
(Accounts & Entitlement)
Pension Section,
Teynampet, Chennai – 600 018.

... Respondents



W.P.Nos.857, 859 & 867 of 2022

Prayer in W.P.No.867 of 2022: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records which culminated in passing the impugned order issued by the fourth respondent order P05/4/10530379/ADK/166 dated 15.09.2021 and quash the same and consequently, directing the fourth respondent to approve the pension proposal of the petitioner by taking into account the order of the third respondent dated 26.08.2020 and accordingly sanction and pay pension to the petitioner.

In all W.Ps.

For Petitioner : Mr.P.Ganesan

For Respondents

For R1 to R3 : Mr.E.Vijay Anand

Additional Government Pleader

For R4 : Mrs.Hema Mualikrishnan

COMMON ORDER

These writ petitions have been filed challenging the orders passed by the fourth respondent dated 29.06.2021, 24.06.2021 and 15.09.2021, thereby returning the service book of the petitioners for correcting discrepancies.

2. The petitioners were originally appointed as Grade-I Police constable. Subsequently they were promoted to the post of Head Constable and thereafter promoted to the post of Sub Inspector of Police



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in the year 2016. Thereafter, they were retired from service during the year 2020, on attaining their age of superannuation at the scale of pay of Rs.55,700/-. Whereas, similarly placed persons were given promotion to the post of Special Sub Inspector of Police on 16.01.2011 and subsequently they were promoted to the regular Sub Inspector of Police on 08.02.2016. They retired from service in the year 2020 at the age of retirement. However, they were retired in the last drawn pay of Rs.57,400/- in the scale of pay of Rs.49,500/- as on 01.01.2016 in the revised basic pay of the post of Sub Inspector of Police.

3. All the persons were retired from their service in the year 2020, after getting their annual increment for the crucial date for such increment i.e., 01.01.2020. However, the petitioners' pensionary benefits were finalized by the government order dated 06.02.2016. Accordingly, the police personnel who were appointed as Grade II Police Constables in the year 1981, 1982, 1984 and 1985 and upgraded as Special Sub Inspector of Police have given representation that their juniors who were appointed as Grade-II Police Constables in the year 1986 and ungraded as Special Sub Inspector of Police are getting more pay than these police



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personnel and requested to rectify the pay anomaly. For the police constables, who were upgraded in the year 1997, their pay was fixed based on their respective option in pay fixation. Generally, in most of the cases, where the posts have been upgraded to next category, the fixation under the Rule 22(B) of the Fundamental Rules including exercising option is allowed.

4. Though there is no fresh option, if any juniors getting more pay anomaly is brought to notice by any senior, action may be taken to rectify it as per Sub Rule (2) under Rule 22(B) of the Fundamental Rules. Therefore, the scale of pay of the petitioners should be fixed as Rs.57,400/- in the scale of pay of Rs.49,500/- as on 01.01.2016. In fact, similar pension proposal was sent and the said proposal was admitted and sanctioned proper pension. However, the petitioners' proposals are not accepted and returned on the ground that the revised pay fixation done by the department consequent on advancement of upgradation to the posts of Grade-I Police constable and Head Constable is not in order. Aggrieved by the same the petitioners filed the present writ petitions.



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5. The third respondent filed counter and the learned Additional Government Pleader appearing for the respondents submitted that the petitioners were included in the “C” list of the Sub Inspector and promoted as regular Sub Inspector of Police. Thereafter, they were retired from service in the year 2020. Their pension proposal based on the last drawn salary of Rs.57,520/- was sent to the fourth respondent. The fourth respondent had regulated the pay and allowances of the petitioners from the beginning and finalized the last pay drawn as Rs.55,820/- and issued pension authorization on 08.07.2020 and it is not anomaly with one Thiru Veedhi for the pay last drawn of Rs.55,700/-

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

7. On perusal of the proposal dated 10.03.2020 on the file of the third respondent revealed that the petitioners were rightly awarded increment with effect from 01.01.2019 and with effect from 01.01.2020. Admittedly, the petitioners got retirement after the cut off date viz., 01.01.2020. Therefore, the petitioners' last drawn pay has to be fixed at Rs.57,400/- with effect from 01.01.2020.



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8. In view of the above discussions, the orders passed by the fourth respondent cannot be sustained and liable to be dismissed. Accordingly, the orders passed by the fourth respondent dated 29.06.2021, 24.06.2021 and 15.09.2021 are hereby quashed. The third respondent is directed to send fresh pension proposal as per the order dated 10.03.2020, to the first respondent within a period of four weeks from the date of receipt of a copy of this Order. On receipt of the same, the first respondent is directed to consider the same and pass orders on merits and in accordance with law within a period of four weeks thereafter.

9. With the above directions, all the writ petitions are allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

02.07.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

rts



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G.K.ILANTHIRAIYAN. J,

rts

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