



W.P.No.13494 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.07.2024

DELIVERED ON : 10.07.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P.No.13494 of 2015

and

M.P.Nos.1 and 2 of 2015

T.Kuttalam Pillai

...Petitioner

Vs

1. The Director,
Directorate of Technical Education,
Guindy, Chennai 600 025.

2. Murugappa Polytechnic College,
Rep by its Principal,
Sathyamurthy Nagar,
Avadi, Chennai 600 062

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 2nd respondent in his proceeding letter No.517/14-15 dated 21.10.2014 and quash the same and direct the



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respondents to grant grade pay as per serial No.8 of the Annexure-I of Letter No.63305/Pay Cell/2010-1 dated 08.11.2010 to the petitioner on notional effect with effect from 12.01.2008 for the purpose of fixation of pay in the revised scale of pay with monetary benefits with effect from 01.04.2013 within the time limit fixed by this Court.

For Petitioner : Mr.M.Vijayakumar
For Respondent-1 : Mr.R.Kumaravel
Additional Government Pleader
For Respondent-2 : Mr.T.S.Gopalan
for M/s.T.S.Gopalan and Co.

ORDER

The issue that has engaged the attention of this court is “*whether an employee drawing the benefits of the V pay commission scale, on the coming into force of the VI pay commission scale opts for revision to the VI pay commission scale with effect from the date of movement to the selection grade can thereafter once again claim corresponding pay band in the next higher scale of pay “as set out in the VI pay commission scale.”*”

2. To answer this issue it would be necessary to briefly allude to



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the petitioner's case and the counter of the respondents.

3. It is the petitioner's case that he was appointed as a Mechanic in the second respondent's polytechnic on 12.01.1998. He had completed his probation successfully in the year 2000. This post does not have a promotional avenue.

4. The petitioner's ordinary scale of pay at the time of his joining was Rs. 3,050-75-3,950-80-4,590. The corresponding selection grade pay as per the Tamil Nadu Revised Scale of Pay Rules 1998 (hereinafter referred to as 1998 Rules) in S.No of 5 Schedule II applicable to the petitioner is Rs.4,000-100-6,000. The petitioner has been awarded the selection grade pay on 12.01.2008 vide the proceedings of the 2nd Respondent in Memo No.1495/2007-2008 dated 26.03.2008.

5. The Tamil Nadu Revised Scales of Pay Rules, 2009 (hereinafter



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referred to as 2009 Rules) was introduced with effect from 01.01.2006, . Option was given to employees to opt for revision of the scales of pay as per VI pay commission scales with effect from 01.01.2006 or on the date of movement to selection grade. The petitioner had opted for the revision on the date of his movement to the selection grade i.e., on 12.01.2008. The petitioner's case is that with effect from 12.01.2008, his grade pay moved from Rs.1,900 to Rs.2,400. This grade pay had been received by him till 21.10.2014.

6. He would further state that a One man commission had issued Orders with regard to the revision of the scales of Pay as per Rules 2009 and upgraded the scale of pay from Rs.3,050-4590 to Rs.3,200-4,900 by increasing one level as per schedule II of 1998 Rules. By reason of the recommendation as per schedule I of the 2009 Rules, the equivalent Pay Band-I for one level higher scale of pay in grade pay increased from Rs.1,900 to Rs.2,000.



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7. By reason of G.O.Ms.338 Finance (Pay Cell) Department dated 26.08.2010, the petitioner's scale of pay was revised to one level higher i.e., from Rs.5,200-Rs.20,200 + grade pay Rs.1,900 to Rs.5,200-Rs.20,200+grade pay Rs.2,000/-. It is the contention of the petitioner that since the post of a Mechanic was a non-promotional post, he was entitled to the promotional scale of pay i.e., of a Workshop Instructor. The Scales of pay of Workshop Instructor was also revised one level higher i.e. from Rs.5,200-Rs.20,200 + grade pay Rs.2,400 to Rs.5,200-Rs.20,200+grade pay Rs.2,600. Therefore, the petitioner claimed that he was entitled to the above scale.

8. He would submit that he had made a representation dated 21.02.2011 in this regard to the 1st Respondent. This request was rejected stating that as per letter No.63305/Pay Cell/2010-1 dated 08.11.2010, the petitioner was only entitled to S.No.6 of Annexure I of the letter. The petitioner preferred an appeal before the 1st respondent and revision before the Government. This was also rejected quoting the letter dated



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08.11.2010.

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9. By G.O.Ms.325 Finance (Pay Cell) Department dated 22.07.2013, the petitioner's ordinary scale of pay was revised from Rs.5,200-20,200 + grade pay Rs.2,000 to Rs.5,200-20,200 +grade pay Rs.2,400. The petitioner represented to the authorities that he was entitled to the grade pay based on the ordinary scale as per S.No.8 of Annexure I of the letter dated 08.11.2010. However, the 2nd Respondent had issued proceeding dated 31.12.2013 granting grade pay based on the first level promotional post grade pay. This is contrary to the clause laid down in the letter dated 08.11.2010.

10. The petitioner would submit that he had sent a representation dated 19.02.2014 to the first respondent asking him to refix the scale of pay as per S.No.8 of Annexure I of the letter dated 08.11.2010. The first respondent had by letter dated 30.09.2014 clarified that if the petitioner has exercised his option as under G.O.Ms.237 Finance (Pay Cell) dated



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22.07.2013 the scale of pay can be revised which the petitioner states that he has not exercised. The 2nd Respondent by impugned order dated 21.10.2014 states that the petitioner has exercised the option and grade pay has been fixed on the basis of the next level of promotional post's ordinary scale of pay as provided in G.O.Ms.237. Therefore, the petitioner is constrained to approach this court.

11. The first respondent's counter at para 14 to 17 sets out their defense to the petitioner's claim and the same reads as follows:

“14. It is submitted that the petitioner filed WP.No: 13494/2015 seeking grade pay as per Government letter No: 63305/Pay Cell 2010-1 dated 08.11.2010 notionally from 12.01.2008 monetarily from 01.04.2013. The petitioner was initially appointed as Mechanic on 12.01.1998 in the Murugappa Polytechnic College, Chennai which is a Government Aided Polytechnic College. The petitioner became eligible for the Selection Grade Scale of pay in the post of Mechanic from 12.01.2008. Accordingly his Grade pay was fixed @ Rs.2600/-



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15. It is submitted that In the G.O.338/ Finance (pay Cell) Dept dated 26.08.2010, the technical posts are classified into four categories of trade post on the basis of scale of pay. Accordingly the petitioner's pay also revised from Rs.5200-20200+GP 1900 to Rs.5200-20200 +GP 2000. The Government has issued G.O. Ms.325/Fin(pay Cell Dept) dt.22.07.2013, revising the ordinary Scale of pay from Rs.5200-20200 +GP 2000 to Rs.5200-20200 +GP 2400/-. As per the said G.O, the petitioner's pay in the ordinary grade was revised and fixed at GP 2400/-

16. It is submitted that the Government has issued Letter No: 63305/Pay cell/2010-1 dated 08.11.2010 revising the scales of pay of employees in the Selection Grade /Special Grade. It is stated that, if the revised selection Grade/Special Grade scale of pay indicated in the annexure I happens to be higher than the first level / second level promotional post then in such cases the revised Selection Grade/Special Grade pay should be restricted to first level/second level post only. The



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next level promotional Post for the post of Mechanic is Workshop Instructor with Scale of pay is Rs.5200-20200+GP 2600/-. Hence the petitioner was given Rs.5200-20200+GP 2600/- when he moved to selection grade restricting his pay to the scale of pay of first promotional post Workshop Instructor. i.e.

17. It is submitted that the fixation of pay has been done based on the orders issued by the Government from time to time as per the recommendations of the Pay Grievance Committee. Hence, the question of revision of pay and grade pay does not arise in this regard and hence the prayer of the petitioner does not merit consideration and the same is liable to be dismissed.”

12. In their written instructions, they would submit that when the petitioner had completed 20 years in the post of Mechanic as on 20.06.2019, the VII pay commission scale of pay had come into effect and the petitioner's scale is fixed at level 9, S.No.23 (Rs.20,000-63,600) @ Rs.38,400 which corresponds to the pay of Rs.5,200-20,200 + grade



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pay Rs.2,600 of VI pay commission. He has also given two increments of 3% each on award of selection grade + special grade in the post of the Mechanic. Therefore, they sought to have the Writ dismissed.

13. The 2nd respondent in their counter affidavit has placed into perspective the entitlement of the petitioner. They would contend that the petitioner who had been appointed as a Mechanic on 12.01.1998 in the pay scale of Rs.3,050-75-4,590 after 10 years, i.e on 12.01.2008 has become entitled to the selection grade pay. He was given the selection grade pay with effect from 12.01.2008 at Rs.4,000-100-6,000. The VI pay commission was given effect in 2009 and the benefits extended to the post of Assistant/Skilled Assistant/Mechanic as per G.O.Ms.234 of Finance (pay cell) department dated 01.06.2009. The revised scale of pay has been tabulated as follows:

Sl. No.	Existing pay scale Rs.	Revised Pay scale under V Pay Commission
1.	3050-75-3950-80-4590	Rs.5,200-20,200 + G.P



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2.	4000-100-6000	Rs.1,900 (S.No.5 in Schedule I) Rs.5,200-20,200 + G.P.Rs.2,400 (S.No.8 in Schedule I)
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14. They would submit that since there were concerns raised about certain anomalies in the VI pay commission, the Government of Tamil Nadu had appointed a One Man Commission to look into these anomalies. The one man commission recommended revision of certain scales of pay and re-designated certain posts. This recommendation was accepted and implemented vide G.O.Ms.338 dated 26.08.2010. The one man commission re-designated all posts under ordinary scale of pay Rs.3,050-75-3,950-80-4,590 as Skilled Assistant Grade II and placed them in pay scale Rs.5,200-20,200 + grade pay Rs.2,000. Likewise, promotional posts under the ordinary scale of pay Rs.4,000-100-6000 were re-designated as Skilled Assistant Grade I and the pay scale was fixed at Rs.5,200-20,200 + grade pay Rs.2,600.

15. The 2nd Respondent would further contend that as sequel to the



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above proceedings, the Director of Technical Education vide its letter No.41134/A3/2013 dated 31.12.2013 had fixed the salary of ordinary Technical Assistant II and its promotional posts as follows:

- (a) Ordinary Post – Rs.5,200-Rs.20,200 + Grade Pay Rs.2,400/-
- (b) Selection Grade Post - Rs.5,200-Rs.22,000 + Grade Pay Rs.2,600/-
- (c) Special Grade Post – Rs.5,200 – Rs.20,200 + Grade Pay Rs.2,800/-

16. It is the contention of the 2nd Respondent that the petitioner was initially placed in pay scale Rs.3,050-80-4,590 and after 10 years on his being entitled to the selection grade of pay, it was fixed at Rs.4,000-100-6,000. Once the VI pay commission set in, the pay was revised to ordinary scale of pay Rs.5,200-20,200 + grade pay Rs.2,400 and after the one man commission recommendation, it was revised and fixed at Rs5,200-20,200 + grade pay Rs.2,600. Since the petitioner had already been granted the selection grade pay in 2008, he is not entitled to a further revision. The 2nd respondent would submit that the petitioner has approached this court on the mistaken belief that since his ordinary scale



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of pay is Rs.5,200-20,200 + grade pay Rs.2,600, he is entitled to selection pay of Rs.9,300-38,400 + grade pay Rs.4,200. Therefore, they sought for a dismissal of the writ petition.

17. Heard the respective counsels and perused the affidavits and counter affidavits on record.

18. When the petitioner had joined the services of the 2nd Respondent, the V pay commission's scale of pay were applicable, notified as the Tamil Nadu Revised Scale of Pay Rules, 1998 (hereinafter called Rules 1998) as set out in G.O.Ms.162 Finance (Pay Cell) Department dated 13.04.1998. This G.O. continued the then existing procedure of movement to selection grade/ special grade and fixation of pay in these grades. A government servant completing 10 years was entitled to selection grade pay and the ones completing 20 years to the special grade of pay. The G.O. set out the revised scale of selection grade and special grade pay in Schedule II to Rules 1998 and



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had set out the selection grade + special grade scales of pay as follows:

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SELECTION GRADE AND SPECIAL GRADE SCALES OF PAY:

“4. The Selection Grade and Special Grade will be the corresponding revised scales based on the existing pay scales of these grades. The appropriate revised scales of pay for Selection Grade / Special Grade are indicated in Schedule-II to the Tamil Nadu Revised Scales of Pay Rules, 1998. Provided further, Selection Grade and Special Grade scales shall be regulated as below :-

(i) For posts, having no promotional avenue, the Selection Grade and Special Grade shall be allowed as indicated in Schedule-II.

(ii) For posts having promotional posts, if the Selection Grade scale of pay indicated in the said Schedule is higher than the pay scale of promotional post, the Selection Grade scale should be limited to the pay scale of the first level promotion post. Similarly, if the Special Grade scale is higher than the pay scale of second level promotion post, the Special Grade scale shall be



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limited to the pay scale of second level promotion post only.

The existing procedure for movement to Selection Grade / Special Grade and fixation of pay in these grades shall continue to be adopted in future in the revised scales also.”

19. The petitioner when he joined service was in the scale of pay of Rs.3,050-75-3,950-80-4,590. He was to move to the selection grade in the year 2008 where his corresponding scale of pay was to be Rs.4,000-100-6,000. Meanwhile the VI pay commission scales of pay as revised by the Tamil Nadu Revised Scales of Pay Rules 2009 i.e., 2009 Rules was notified as per G.O.Ms.234 Finance (Pay Cell) Department dated 01.06.2009. This scale of pay was to be notionally revised from 01.01.2006 and monetary benefits was to be given from 01.01.2007. Under this G.O, the scheme of selection grade/ special grade was to continue in the revised scales to employees drawing grade pay (GP) from Rs.1,300 to 6,000 i.e., persons falling within pay band-PB 1A to the 3rd



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level of pay band PB 3 as set out in the Schedule I of the G.O. It further provided that where employees moved to selection grade / special grade on or after 01.01.2006 their pay would be fixed on the date of award of selection grade/special grade by granting the benefit of one increment equal to 3% of Basic Pay including grade pay in the same pay band and grade pay. Rule 8 of the Rules, 2009 provided an option to the government employees to exercise an option to remain in the existing scale of pay until the date on which he earns his next or subsequent increments in the existing scale of pay or until he vacates his post or ceases to draw pay in that scale. In case, he did not opt to exercise his option within the stipulated time he will be deemed to have opted for the revised scales of pay with effect from 01.1.2006.

20. As petitioner has exercised his option for revision of pay scale as per the VI Pay Commission Scales from the date of his moving to the selection grade i.e., 12.01.2008. Therefore, his corresponding pay band was PB 1 Rs.5,200-20,200 + grade pay Rs.2,400. Pursuant to the One



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Man Commission recommendation, his V Pay Commission scale moved to the next higher level as set out in the G.O.Ms.338 Finance (Pay cell) Department dated 26.08.2010. As per the recommendations, posts were merged and pay scales were revised. As per Clause 2(ii) therein, the trade posts in existing scale of pay Rs.3,050-4,590 was revised as Rs.3,200-4,900 and these posts were re-designated as Skilled Assistant grade II. Therefore, the petitioner who moved to the selection grade pay of scale Rs.4,000-6,000 moved one scale higher to Rs.4,300-6,000. Therefore, with the introduction of the VI pay commission, the equivalent scale of pay was PB 1, i.e, Rs.5,200-20,200 + grade pay Rs.2,600. The petitioner who had already exercised his option to revised scales of pay on the date of movement to selection grade on 12.01.2008, cannot once again seek movement to the corresponding selection grade pay band as per the VI pay commission.

21. To better understand the entitlement of the petitioner, we should analyze what the petitioner would be entitled to, if the option has



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not been exercised for revision of his scales of pay. His initial scale of pay being Rs.3,050-75-3,950-80-4,590. Its equivalent under the VI pay commission scale of pay would be PB 1 Rs.5,200-20,200 + grade pay Rs.1,900 as per Table 5 of G.O.Ms. 234. After the one man commission's recommendation as per G.O.Ms. 338 the petitioner whose posts has been re-designated as skilled assistant grade II would be placed into one level above on the revised scale of pay was Rs.5,200-20,200 + Rs.2,000 grade pay. Thereafter, as per G.O.Ms 237 at 22.07.2013, he would be entitled to an additional increment benefit (over and above the one increment already allowed) equivalent to 3% + 3% of basic pay (pay + grade pay) for award of selection grade /special grade in the revised scale of pay. The petitioner has proceeded on a misconception that the selection grade and special grade pay continued to be in vogue even after coming into force of the VI Pay Commission. The petitioner would not be entitled to the scale of pay now claimed by him. The petitioner has based his claim on Annexure I of the letter dated 08.11.2010. However, the note to this Annexure clearly states that it is not applicable to persons



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who have opted for revised scale of pay on a subsequent date after 01.01.2006. Therefore, the petitioner who has exercised his option after 01.01.2006 is not entitled to claim a right based on this Annexure.

22. In fine the petitioner is not entitled to his claim and therefore the writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

10.07.2024

Index : Yes/No

Speaking order/non-speaking order

srn

To

1. The Director,
Directorate of Technical Education,
Guindy, Chennai 600 025.

2. The Principal,
Murugappa Polytechnic College,
Sathyamurthy Nagar, Avadi, Chennai 600 062



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P.T. ASHA.J,

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