



WEB COPY



W.P.No.3092 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2024

CORAM:

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

W.P.No.3092 of 2020 and
WMP.No.3642 of 2020

P.Manimegalai

... Petitioner

Vs.

The Deputy Inspector General of Police,
Salem Range, Salem District

... Respondent

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of certiorarified mandamus calling for the records relating to the impugned order made in C.No.A2/3349/2017-R.O.163/2017 dated 07.06.2017 and the consequential order made in C.No.C1/4756/2017-R.O 283/2017 dated 08.11.2017 and C.No.A2/3349/2018 dated 19.07.2019 passed by the respondent, quash the same and consequently direct the respondent to refund the amount deducted from the salary including special grade assistant to pay all other attended benefits with effect from 02.05.2017.

For Petitioner : Mr.G.Ethirajulu

For Respondent : Mr.V.Manoharan,
Additional Government Pleader



W.P.No.3092 of 2020

WEB COPY

ORDER

This writ petition has been filed challenging the order passed by the respondent dated 07.06.2017 and the orders dated 08.11.2017 and 19.07.2019 thereby revised the petitioner's pay fixation and also ordered for recovery.

2. The petitioner was appointed as Steno Typist Grade-III through Tamilnadu Public Service Commission and she was posted in the Office of the Regional Deputy Director, Audit for Milk Co-operative Department, Erode by order dated 31.01.1997. Subsequently, she was transferred to the Police Department on 17.10.2001 as Steno Typist. Thereafter, the petitioner was promoted to the post of Assistant by an order dated 19.09.2005 at District Police Office, Namakkal. The post of Steno Typist Grade-III and Assistant are one and the same. Therefore, after completion of 10 years of her service, she sought for selection grade with effect from 01.05.2007. The respondent considered the representation submitted by the petitioner by order dated 30.04.2015 and conferred the petitioner selection grade with effect from 02.05.2007. In



W.P.No.3092 of 2020

fact in the said order, the respondent stated that the categories of Steno Typist and Assistant are one and the same under the same scale of pay. Therefore, the representation submitted by the petitioner was rightly considered and taken into account the service rendered by the petitioner in the posts of Steno Typist Grade-III and Assistant and granted Selection Grade with effect from 02.05.2007. Thereafter the petitioner was promoted to the post of Superintendent by an order dated 05.06.2017. While being so, by an order dated 07.06.2017, the respondent revised the selection grade in the rank of Assistant holding that she was promoted as Assistant on 06.10.2005 and as such she is not eligible for selection grade. In pursuant to the said order, the petitioner's pay scale was revised with effect from 06.10.2015 and also ordered recovery to the tune of Rs.3,08,449/- by the proceedings dated 08.11.2017. Aggrieved by the same, the petitioner submitted representation to the Commissioner of Police and requested to re-examine the order of cancellation of selection grade and also demanded for selection grade with effect from 02.05.2017. The said request was also rejected by the order dated 19.07.2019.



W.P.No.3092 of 2020

WEB COPY

3. The learned counsel appearing for the petitioner would submit that even according to the respondent, the posts of Steno Typist Gr-III and Assistant are one and the same under the same scale of pay. Therefore, though the petitioner was promoted by way of transfer to the post of Assistant, she is entitled for selection grade immediately after completion of 10 years of service as Steno Typist Grade-III as well as Assistant. Therefore, the petitioner was initially rightly granted selection grade with effect from 02.05.2007. On the basis of GO.Ms.No.210 Personnel and Administrative Reforms (Per.S) Department dated 11.03.1987, the Government ordered that as per the one man committee, the service in the selection grade of the lower post shall be counted for the selection grade in the promoted post provided that the selection grade scale of the lower post is identical to the original grade of the higher post and that the concession be allowed only at the first promotion level. The Government also directed that in the case of posts with different grades, one who has put in 10 years or more of service in the lower post shall be advanced to the next higher post under the scheme of flexible



W.P.No.3092 of 2020

WEB COPY

complementing and one with a service of 20 years or more be advanced to selection grade of the higher post wherever it has already been provided. Therefore, the respondent had erred in holding that the petitioner did not complete her 10 years of service as Steno Typist Grade-III as if the same is a pre-request for movement of selection grade. He further submitted that two other employees who rendered service in the category of Steno Typist Grade-III and Assistant were awarded selection grade by considering both the services.

4. The respondent filed counter stating that the post of Steno Typist Grade-III and the post of Assistant are one and the same, but both the posts are different categories. The petitioner had put in service in the post of Steno Typist Grade-III for 8 years and 9 months. Thereafter, she had rendered service on her promotion to the post of Assistant from 06.10.2005. Therefore, in the post of Assistant, the petitioner was fixed pay by granting one increment as the time scale of pay for the lower post i.e. Steno Typist Grade-III and the higher post i.e. Assistant carrying identical scale of pay of Rs.4000-100-6000. Therefore, the scale of pay



W.P.No.3092 of 2020

of the petitioner was rightly revised and ordered for recovery.

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

6. Admittedly, the petitioner was promoted by way of transfer to the post of Assistant with effect from 19.09.2005. Both the posts are one and the same under the same scale of pay. Therefore, though the petitioner was promoted to the post of Assistant, she was fixed at the same scale of pay of the post of Steno Typist Grade-III. Therefore, the petitioner made representation seeking selection grade in the post of Steno Typist Grade-III as well as Assistant after completion of 10 years of Service. The said request was considered by the respondent by its communication dated 30.04.2015 and conferred Selection Grade with effect from 02.05.2007 i.e. after completion of 10 years of service. It was also clarified in the said order that the posts of Steno Typist Grade-III and Assistant are one and the same under the same scale of pay i.e. Rs.4000-100-6000. Based on the Government order in GO.Ms.No.210



W.P.No.3092 of 2020

Personnel and Administrative Reforms (Per.S) Department dated 11.03.1987, the revised pay band and the grade pay of Steno Typist Grade-III and Assistant are one and the same and identical. Therefore, as per the same, after completion of 10 years, the petitioner is entitled for selection grade in the post of Steno Typist Grade-III and Assistant since both are one and same and identical. In fact, the petitioner's immediate senior and immediate junior in the cadre of Steno Typist Grade-III were granted selection grade after their promotion to the post of Assistant considering the total service rendered in both the posts. However, the respondent ordered to recover the excess payment which was made from 02.05.2007. Further the scale of pay was also revised.

7. In view of the above, the impugned orders cannot be sustained and the same are liable to be quashed. Accordingly, the impugned orders dated 07.06.2017, 08.11.2017 & 19.07.2019 are quashed and this writ petition stands allowed. The respondent is directed to refund the amount which was already deducted from the salary of the petitioner including special grade assistant and to pay all other attended



W.P.No.3092 of 2020

benefits by restoration of her scale of pay. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

13.08.2024

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
lok

G.K.ILANTHIRAIYAN, J.

lok

To
The Deputy Inspector General of Police,
Salem Range, Salem District

W.P.No.3092 of 2020



WEB COPY



W.P.No.3092 of 2020

13.08.2024