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W.P. No. 4086 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P. No. 4086 of 2018

A. Yuvaraj

... Petitioner

Vs.

**1.The Government of Tamil Nadu,
rep., by The Secretary to Government,
Finance (Pay Cell) Department, Fort St. George,
Fort St. George, Chennai – 600 009.**

**2.The Director,
Tamil Nadu Motor Vehicles Maintenance Department,
Velachery, Chennai – 600 042.**

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in R.C.No.A3/00390/2017 dated 22.09.2017 and quash the same and direct the respondents to grant five percent personal pay to the petitioner with effect from 01.08.1992 and grant petitioner all consequential benefits and render justice.

For Petitioner : Mr. P. Mohanraj

**For Respondents : Mr. G. Ameedius
Government Advocate**



ORDER

This Writ Petition has been filed seeking a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in R.C.No.A3/00390/2017 dated 22.09.2017 and quash the same and direct the respondents to grant five percent personal pay to the petitioner with effect from 01.08.1992 and grant petitioner all consequential benefits and render justice.

2. Heard the learned counsel for the petitioner and learned Government Advocate appearing for the respondents.

3. The petitioner was appointed as Machinist Grade-I in the second respondent Department. Pursuant to the recommendation of the One Man Commission, the pay of the petitioner was revised in the scale of Rs.950-1500. The Government of Tamil Nadu issued orders in G.O.Ms.No.664, Finance (Pay Cell) Department, dated 24.08.1992 directing grant of personal pay at 5% of the basic pay to the categories of staff mentioned with effect from 01.08.1992.

4. It appears that the petitioner's pre-revised scale of pay was Rs.555-970 and it moved over to the revised scale of pay of Rs.950-1500. Since the category in the pre-revised scale of Rs.555-970 moving over to the revised scale of pay of Rs.950-



1500 did not find a place among the four categories mentioned in G.O.Ms.No.664, Finance (PC) Department, dated 24.08.1992, it appears that the petitioner was denied the 5% personal pay.

5. The State Government issued order in G.O.Ms.No.664, Finance(PC) Department dated 24.08.1992, directing that 5% of the Basic pay computed as on 01.08.1992 be granted as personal pay to the following categories:

(i) All employees in the pre-revised scale of pay at Rs.475-775 moving over to the revised scale of pay of Rs.775-1030.

(ii) All employees in the pre-revised scale of pay of Rs.610-1075 moving over to the revised scale of pay of Rs.950-1500 or Rs.975-1660.

(iii) All employees in the pre-revised scale of pay of Rs.705-1230 moving over to the revised scale of pay of Rs.1200-2040 and

(iv) All employees in the pre-revised scale of pay of Rs.905-1545 moving over to the revised scale of pay of Rs.1600-2660. The Government further issued clarifications on the implementation of the Government Order referred above in letter No.106614/PC/92-1, Finance (PC) Department, dated 30-9-92.

6. In W.P. Nos. 20156 and 13143 of 2000, this Court declared that denial of 5% personal pay is illegal. Following the said judgment, this Court also allowed the writ petition in W.P. No.16028 of 2010 dated 06.06.2022. It is relevant to extract the



relevant portion of the judgment of the Hon'ble Division Bench of this Court in

WP.No.20156 of 2000 hereunder:

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“10. According to the petitioners, Assistants in Sl.No.III who are in the selection grade and receiving the same scale of pay as that of the petitioners, were enjoying the benefit of 5% personal pay on basic pay. However, the petitioners were not given such benefit only on the ground that the Government has consciously omitted to include them in the said GO. The main intention in passing the said GO is to remove the anomaly in pay after the revision in the fifth Pay Commission. The contention of the petitioners is that the persons in the lower scale of pay and higher scale of pay as against the petitioners, were given the benefit of 5% personal pay of the basic pay, whereas the petitioners have been denied the same. The letter which is impugned in the writ petitions erroneously states that the employees in selection grade scale of Rs.1400-2600 cannot be compared with Head Clerks in Judicial Ministerial Service as the grade of these posts should be considered based on the ordinary grade level of a post and not with reference to the selection grade of a post.”

7. Following the said judgment, this court held that it is an omission and anomaly and also held that omission of the in-between scales, would amount to discrimination, violative of Article 14.



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8. Therefore, the petitioner is entitled for 5% personal pay with effect from 01.08.1992. Accordingly, the respondents are directed to restore 5% personal pay with effect from 01.08.1992 to the petitioner and disburse all the arrears and consequential benefits including further revision of pay within a period of twelve weeks from the date of receipt of copy of this order. However, the petitioner will not be entitled for any interest on the said arrears.

9. With the above directions, this writ petition is disposed of. The order impugned in this writ petition is hereby set aside.

10. There shall be no order as to costs.

25.10.2024

Index :Yes/No

Neutral Citation :Yes/No

AT

To

1.The The Secretary to Government,
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BATTU DEVANAND, J.

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