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WP.No.25522 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM

THE HONOURABLE MRS. JUSTICE **R.KALAIMATHI**

W.P.No.25522 of 2012

D.Pandian

...

Petitioner

Vs.

1.The Chief Secretary to Government
of Tamil Nadu, Secretariat,
Chennai-600 009.

[The first respondent deleted vide court order
dated 04.09.2014 by BRJ in MP.No.1/2013
in WP.No.25522/2012]

2.The Secretary to Government,
Personnel & Administrative
Reforms Department,
Secretariat, Chennai 600 009.

...

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the orders of the second respondent in (1) Letter No.21678/OP.I-1/2009-1, Personnel and Administrative Reforms Department (OP.1.1) Department, dated 31.12.2009 (2) Letter No.11408/OP1.1/2011-5, Personnel and Administrative Reforms Department (OP.1.1) Department, dated 24.06.2011 to quash the same and to issue consequential directions to the respondents to step up the pay of the petitioner on par with his junior, as per G.O.Ms.171, Personnel and Administrative Reforms (U.Spl.) Department, dated 28.09.2006 and grant consequential service and monetary benefits with interest.



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For Petitioner : Mr.RR.Mohan Raja for
Mr.C.Murugesan
For respondent : Mr. S.Rajesh,
Government Advocate

ORDER

The orders of the respondent in (1) Letter No.21678/OP.I-1/2009-1, Personnel and Administrative Reforms Department (OP.1.1) Department, dated 31.12.2009 (2) Letter No.11408/OP1.1/2011-5, Personnel and Administrative Reforms Department (OP.1.1) Department, dated 24.06.2011 are under challenge, and consequently, directions have been sought for to step up the pay of the petitioner on par with his junior, as per G.O.Ms.171, Personnel and Administrative Reforms (U.Spl.) Department, dated 28.09.2006, and to grant for consequential service and monetary benefits with interest.

2. The petitioner, D. Pandian, son of the late P. S. Dhanavelu, submits that he was initially appointed as an office assistant in the Personnel and Administrative Reforms Department, Secretariat, Chennai on 13.04.1983. As per U.O.Note No.75650/I/94-2 dated 20.05.1995 of the 2nd respondent, he was promoted as Assistant . He was promoted as



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Assistant Section Officer under one unit system on 20.01.1998 vide Pro.C.No.42800/U/97 of the 2nd respondent. The petitioner further submits that his name was included in the panel on 01.06.2007(2007–2008) for promotion as Section Officer, vide G.O.(3D) No. 23, Personnel and Administrative Reforms Department, dated 05.12.2007.

3. The grievance of the petitioner is that his junior, D.Balasubramaniam, who was working as Section Officer in the Public Department, Chief Minister's Office, was drawing more pay than himself. Therefore, it becomes necessary for him to have his pay stepped up on par with his junior. He would further submit that the government has issued guidelines in G.O.Ms. No. 171, Personnel and Administrative Reforms Department, dated 28.09.2009 for the rectification of anomalies in pay. On 24.04.2009, the petitioner has submitted a representation for stepping up his pay on par with his junior, namely D.Balasubramaniam, who was working as Section Officer in the Public Department, Chief Minister's Office; however, his request was rejected stating that he should have been recruited to the Tamil Nadu Secretariat Service on or



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before 28.01.1994.

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4. Heard Mr.RR.Mohan Raja, the learned counsel for the petitioner and Mr. S.Rajesh, the learned government advocate for the respondent.

5. To put in a nutshell the grievance of the petitioner as per arguments of Mr. RR.Mohan Raja, the learned counsel for the petitioner is that the junior of the petitioner, D.Balasubramaniam, who was working as a Section Officer in the Public Department, Chief Minister's Office, was drawing more pay than himself, and therefore his pay has to be stepped up on par with his junior, and the rejection order is incorrect due to the wrong application of principles.

6. Mr.S.Rajesh, the learned government advocate appearing on behalf of the respondents would rather contend that the orders issued in G.O.Ms. No. 171, Personnel and Administrative Reforms Department, dated 28.09.2009 were to the effect that the Assistant Section Officer promoted from the post of Assistant [formerly Junior Assistant]who were



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seniors to the Assistant Section Officer promoted from the post of Typist/Personal Clerk and who were recruited to the Tamil Nadu Secretariat Service and appointed in the Secretariat on or before 28.01.1994, in the combined seniority list of Assistant Section Officers as on 29.05.1998 should be given the pay parity and up gradation on par with their juniors who were promoted from the post of Typist/ Personal clerk, by applying the yardstick prescribed in G.O.Ms.No.126, Personnel and Administrative Reforms (u-Special) Department, dated 29.05.1998.

7. The learned government advocate for the respondents would further submit that the petitioner does not satisfy the conditions laid down in the said Government Order, and hence his representation was rejected. He would further contend that the orders, with regard to stepping up of pay was passed inadvertently in respect of the following individuals who were not in secretariat service as on 28.01.1994 to fix their pay with reference to G. O.(Ms.)No.171, Personnel and Administrative Reforms (U-Special) Department, dated 28.09.2006:-

(i) K.P. Devadoss (late) Formerly Section Officer,



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- Health and Family Welfare Department.
- (ii) T.Mohan, Section Officer,
Home Prohibition and Excise Department.
- (iii) T.Soundararajan, Section Officer,
Municipal Administration and Water Supply
Department.
- (iv) D.Balasubramanian, Section Officer (VRS),
Public Department.
- (v) D.V.Gajendran, Section Officer,
Public Department.

8. The department in which the above individuals are working has been requested to cancel the order already issued and to fix their pay with reference to G.O.(Ms.) No.171, Personnel and Administrative Reforms (U-Special) Department, dated 28.09.2006 and to recover the excess amount paid to them, if any, in Government Letter No.2973/U Spl./2011-19, Personnel and Administrative Reforms (U-Special) Department, dated 05.06.2013.

9. The moot question in this Writ Petition is whether the G.O.(Ms.)No.171, Personnel and Administrative Reforms (U- Special)



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Department, dated 28.09.2006 would apply for the petitioner or not.

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10. In order to have a clear understanding, the operative portion of the said government order is extracted hereunder:

"G.O.(Ms) No.171

Dated:28.09.2006

ORDER:

In the G.O. first read above, the Government look a sympathetic view and attempted a lasting and equitable solution to the long-standing problem of rectification of anomaly by bringing parity between the Seniors in " one Unit" and the Juniors in the Finance Department of the Secretariat and ordered that the Seniors in the One Unit (who have been recruited to the Tamil Nadu Secretariat Service on or before 28.01.1994) shall be upgraded on par with the juniors in the Finance Unit. The pay of the seniors had also been stepped up on par with their juniors. The date of effect of the said order had been given from 29.05.1998....."

11. The above G.O., is passed in order to rectify the anomalies between the seniors in one unit and their juniors in the Finance Department and the pay of seniors had been stepped up on par with juniors in the Finance Units. This G.O. would apply to the persons who are in the Tamil Nadu Secretariat Service on or before 28.01.1994.

12. Mr. RR. Mohan Raja, the learned counsel for the petitioner,



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would vehemently argue that the petitioner joined the secretariat service on 13.04.1983 itself as an office assistant. On that basis, his attendance at

the service is not mentioned, but he would submit that on 13.04.1983, 10(a)(i) of U.O.Note.No.75650/I/94-2 dated 20.01.1999, he joined as an office assistant.

13. The post of Office Assistant comes under the Basic Service. Therefore, as per the rules of the Tamil Nadu Basic Service, G.O.Ms.No.1962, Public (Services-G) dated 25.06.1971, the post of office assistant comes under Clause (iii) category 5; hence, the services were under the Tamil Nadu Basic Service and not under the Tamil Nadu Secretariat Service. The Secretariat Service shall consist of Assistant Section Officers under Category-1, Personal Assistant Clerks, Assistants, and Typists under Category-2, Personal Assistants in various departments under Category-3, Personal Clerks in Finance Department under Category-4, Typists under Category-5, and Telephone Operators under Category-6. As on 28.01.1994, the petitioner was working as an



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office assistant in the Secretariat; therefore, G.O.Ms.No. 171, Personnel and Administrative Reforms Department dated 28.09.2006 would not apply to the petitioner.

14. It is relevant to note that the order of recovery of T.Soundarrajan was quashed in WP.No.10357/2014, with a direction to reconsider the same in accordance with the law. As regards D. Balasubramanian, the order of recovery is challenged in W.P.No.27016/2014 and it is pending disposal.

15. Mr. S.Rajesh, the learned government advocate appearing for the respondents, would put forth that, in view of the above mentioned two persons inadvertently stepping up pay was ordered, however, the present case cannot be considered as an identical issue and be followed.

16. I have carefully perused the impugned orders. In the first impugned order, it was passed by rejecting the request of the petitioner



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on the ground that in order to invoke G.O.Ms.171 dated 28.09.2006, he should have been in the Tamil Nadu Secretariat Service on or before 28.01.1994. Admittedly, the petitioner was in basic service and moved to secretarial service on 20.05.1995. In the second impugned order, he did not satisfy the conditions enumerated under FR-22 B. For all three persons, namely T.Mohan, T. Soundarajan and D. Balasubramanian, it was contended by the learned government advocate that stepping up of the pay was ordered inadvertently and recovery proceedings were taken. Therefore, the petitioner failed to make out his case.

17. In fine, based on the above-mentioned discussions, this Writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed, if any.

18. The learned counsel for the petitioner submits that the petitioner may be permitted to give a fresh representation for pay fixation; considering the request made by the learned counsel for the petitioner, the petitioner is at liberty to submit a representation afresh for



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the purpose of pay fixation to the respondents, within a period of four weeks from the date of receipt of a copy of this order. On receipt of the same, the respondents shall consider his representation and pass orders within a period of 8 weeks from the receipt of the representation in accordance with the law.

03.07.2024

Index: Yes/No

Internet: Yes/No

Speaking order/Non Speaking order

Neutral: Yes/No

jrs

To

1.The Secretary to Government,
Personnel & Administrative Reforms Department,
Secretariat, Chennai 600 009.

2.The Section Officer,
V.R.Section, High Court, Madras.



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R.KALAIMATHI,J.

jrs

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