



W.P.No.24222 of 2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR,J.

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1. C. Mannappan (deceased)

2. M.Selvakumaran

... Petitioners

(P2 substituted as LR's of deceased P1,
as per order dated 30.08.2024 in
WMP No.26658/2024)

Vs

1. State of Tamil Nadu,
rep. by the Secretary to Government,
Highways Department,
Secretariat, Fort St.George,
Chennai 600 009.

2. The Chief Engineer,
Highways Department,
Planning, Designs and Investigation,
Thiru.Vi.Ka Industrial Estate,
Guindy, Chennai - 600 032.



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3. The Government of Tamil Nadu,
rep. by its Secretary to Government,
Finance (Pension) Department,
Fort St. George, Chennai - 600 009.
4. The Accountant General (A & E)-Pension,
Teynampet, Chennai - 600 018.

(R3 & R4 are impleaded as per order
dated 12.02.2018 in WMP No.1838/2018)

5. M. Dharani

6. M. Padmanaban

7. P. Vijayalakshmi

... Respondents

(R5 to R7 are impleaded as per order
dated 30.08.2024)

PRAYER: This writ petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified mandamus to call for the records of the 2nd respondent in his letter No.1245/A1/2015 dated 29.06.2015 and to quash the same as being unsustainable in law and for a consequential direction the 2nd respondent to rectify the error in the petitioner's fixation of scale of pay and place me in the correct scale of pay from 12.12.1989 and consequentially grant all incidental monetary benefits to him including increments and arrears of pay and pension by placing him in the correct scale of pay to which the petitioner is eligible and pay the correct pension as applicable to him in future.



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Petitioner	...	Mr. S. Sarath Kumar for Mr.S.V.Vijay
For Respondents	...	Ms. R.L. Karthika, Government Advocate for R1-R3
	...	Mr. P.Mano Rajan, for R4

ORDER

The Writ of Certiorarified Mandamus has been filed to quash the letter No.1245/A1/2015 dated 29.06.2015 issued by the 2nd respondent and direct the 2nd respondent to fix correct scale of pay from 12.12.1989 and pay the correct pension as applicable to him in future.

2. The petitioner herein was initially appointed as Junior Engineer in the Highways Department and thereafter, the said post was re-designated as Assistant Engineer on 12.12.1979. On completion of 10 years of service in the post of Assistant Engineer, the petitioner has been awarded selection grade on 12.12.1989 and thereafter, he was promoted to the post of Assistant Divisional Engineer on 07.05.1999 and then retired from service on attaining the age of superannuation on 31.08.2002. After a lapse of 13 years, the petitioner submitted a representation



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dated 28.07.2014 complaining against the grant of selection grade and claiming

for higher scale of pay in the selection grade in the post of Assistant Engineer.

Since no action was taken on the said representation dated 28.07.2014, the petitioner approached this Court by filing W.P.No.19399/2015 and this Court by an order dated 02.07.2015 directed the 2nd respondent herein to consider the said representation. It was pursuant to the said order, the respondent no.2 herein passed an order dated 29.06.2015 rejecting the claim of the petitioner. Aggrieved by the said order dated 29.06.2015, the petitioner approached this Court by filing the present writ petition.

3. Thus, it is evident that the petitioner, who retired from service on 31.08.2002 and whose terminal benefit was settled through Pension Payment Order dated 29.11.2002, made a claim in the year 2014 i.e., after a lapse of 12 years 5 months seeking revision of the selection grade that was granted to the petitioner on 12.12.1989. That means the petitioner is seeking the rectification of the selection grade, that was awarded to him in the year 1989, i.e., after 25 years. Hence, the writ petition is liable to be dismissed on the ground of delay and laches alone.



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4. Be that as it may, the claim of the petitioner is that, while he was drawing the pay scale of Ordinary Grade of Rs.2000-3200, the Selection Grade Scale was Rs.2200-4000. However, the said Selection Grade Scale was revised to 2500-4200 by virtue of the order issued in G.O.No.304, dated 28.03.1990 and as such, he is entitled for award of such Selection Grade of Rs.2500-4200. But, he was awarded only the Selection Grade pay of Rs.2200-4000. The respondents through the impugned proceedings informed the petitioner that it is by virtue of proviso to para 4 of G.O.No.304 dated 28.03.1990, the Selection Grade of the petitioner was restricted to the level of Ordinary Grade of the first promotional post, i.e., Assistant Divisional Engineer and therefore, there is nothing wrong in awarding the selection grade of the petitioner. However, without meeting the said contention of the respondents as stated in the impugned order, the present writ petition has been filed by the petitioner contending that the Appendix VII of GO.No.666 dated 27.06.1989 has been revised by the Annexure-I of G.O.No.304 dated 28.03.1990, and by virtue of the same, the Selection Grade corresponding to the Ordinary Grade of Rs.2000-3000 is Rs.2500-4200 and therefore, he is entitled for grant of such Selection Grade. The said para 4 and proviso reads as under:

" 4. Accordingly, in partial modification of the orders issued in paragraph 9 of the G.O. first read above, the



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Government direct that the scheme of selection grade and special grade be allowed to all employees eligible for movement to selection grade and special grade as indicated in the Annexure-I to this order replacing the existing Appendix-VII to the G.O. first read above:

Provided further, wherever the promotion post happens to be on a lower scale of pay than the selection grade scale of pay given in Annexure-I employees in such posts are eligible for the selection grade scale as applicable to promotion post only. "

5. This Court has carefully considered the contention of the petitioner, but, unable to agree with the said contention of the petitioner for the simple reason that the proviso to para 4 of G.O.304 dated 28.03.1990 puts a restriction on the entitlement of Assistant Engineer for grant of Selection Grade to the level of Ordinary Grade of first promotional post and that is what is done by the respondent while awarding Selection Grade to the petitioner. That is what the reason furnished in the impugned order as well as the counter affidavit filed by the respondents, especially, counter affidavit of the respondent no.4.

6. This Court after having thoroughly examined the matter, unable to find



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fault with the impugned order passed by the 2nd respondent and I do not find any

merit in the writ petition and the same is accordingly dismissed. No costs.

Index : Yes/No

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Internet : Yes/No

mrp

To

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