



W.P.No. 29244 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No. 29244 of 2015

and

W.M.P.No. 1 of 2015

1. C.Palanivel
2. M.Nagaraj
3. A. George Fernandus
4. P.Babu Ramesh
5. T.N.Prabhakar
6. J. Velmani
7. V.Murugan
8. C.Valarmathi
9. P.Sathiyamurthi
10. P.Duraisamy

... Petitioners

Vs.

1. The Government of Tamilnadu
Rep. by its Secretary to Government,
Tamil Development, Information and
Public Relations Department,
Fort Saint George,
Chennai – 600 009.
2. The Director of Stationeries and Printing,
No. 110, Anna Salai,
Chennai – 600 002.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,



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to issue a writ of Certiorarified mandamus, to direct the respondents to call for the records in pursuant to the impugned letter issued by the first respondent in Letter No. 17718/A.Aa 1-2/2013-13, dated 08.07.2015 and quash the same and consequently direct the respondents to rectify the pay anomaly by refixing the scale of pay of the petitioners who are working in the categories of Despatchers and Senior Despatching Attendants on par with the scale of pay of Junior Foreman and Binder Grade -I respectively and pay the arrears and other consequential monetary benefits.

For petitioners : Mr.R.Prem Narayan

For respondents : Mr.Vadivelu Deena Dayalan
Additional Government Pleader

ORDER

This writ petition is filed for issuance of Certiorarified Mandamus to quash the impugned proceedings No. 17718/A.Aa 1-2/2013-13, dated 08.07.2015 rejecting the representation of the petitioners to rectify the anomaly in respect of the pay of the petitioners who have been working as Despatchers and Senior Despatching Attendants on par with the scale of pay of Junior Foreman and Binder Grade -I.

2. The facts and brief as per the affidavit enclosed in the writ petition is



as follows:-

2.1 The petitioners have been working in the Second respondent department as Despatcher and Senior Despatching Attendant. Apart from the petitioners, the number of other employees in various categories have also been working. Until 4th Pay Commission, the scale of pay of the petitioners who have been working as Despatchers and Senior Despatching Attendants were equal to that of the Binder Grade-I and Junior Foreman. However, in 5th Pay Commission the pay of Junior Foreman and Binder Grade -I were placed higher than the pay of the petitioners who were working as Despatchers and Senior Despatching Attendants.

2.2 According to the petitioners, the Despatchers are getting pay of Rs. 5200-20200 + G.P. Rs. 1900 whereas Junior Foreman are getting Rs. 9300-34800 + G.P. Rs. 4200. Similarly, the pay of Senior Despatching Attendants is Rs. 7800-10000 + G.P. Rs. 1650 whereas the pay of Binder Grade -I is fixed at Rs. 5200-20200 + G.P. Rs. 2400.

2.3 Thereby, according to the petitioners, there is a huge anomaly and sought to rectify the same. The petitioners has given representation but they



were not considered and ultimately impugned orders have been passed on 08.07.2015 in proceedings No. 17718/A.Aa 1-2/2013-13 stating that the request of the petitioners cannot be considered. Aggrieved by the same, the petitioners have filed this petition.

3. The respondent have filed a detailed counter affidavit. It is the contention of the respondents that the nature of work, qualification, expertise of Junior Foreman and Binder Grade -I are totally different when compared with Despatchers and Senior Despatching Attendants. Thereby, they cannot be compared to the claim that there is a pay anomaly in the 5th Pay Commission.

4. According to the respondents, the duties and responsibilities of the Junior Foreman basically is to allocate the men to the respective machines, to account for production turned out by his group of men, furnishing the time sheets and triplicate in respect of production, maintaining the production records, to provide paper and pulp boards required for printing, to arrange for the safety of the printed sheets etc. Whereas the the duties and responsibilities of the Despatchers are to receive the items from the



production section, to prepare invoice, account for the receipt, despatch and stock of printed forms and registers, delivery of articles etc. Similarly the comparative responsibilities and duties of Binder Grade -I and Senior Despatching attendants were also mentioned in the counter in detail. The Binder Grade -I are responsible for accounting of printing sheets and books entrusted to them, completed jobs are made ready for the next operations etc. Whereas the Senior Despatching Attendants will assign the jobs to the Despatchers in the Despatch wing and to carry out the day to day jobs entrusted by the seniors.

5. On considering the difference of work including the duties and responsibilities of various Despatchers, the Senior Despatching Attendants with that of Junior foreman and Binder Grade -I. It is clear that there is a lot of difference in the duties and responsibilities. The job of Despatchers cannot be compared with the job of Junior Foreman and the job of Senior Despatching Attendants cannot be compared with the Binder Grade – I. On going through the nature of job, it is clear that job of Junior Foreman and Binder Grade-I is purely technical in nature. Whereas the job of Dispatchers and Senior Despatching Attendants will fall under non technical category.



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6. Similarly, as seen from the counter affidavit, the qualification for appointment of the Junior foreman and Binder Grade -I are totally different when compared to the qualification required for appointment of Despatchers and Senior Despatching Attendants. Therefore considering from any angle, it cannot be said that there is a similarity on their nature of work, responsibilities, duties, qualification for appointment etc. between the Despatchers and the Junior Foreman and also between the Senior Despatching Attendant and the Binder Grade -I.

7. Considering the discussions made above, it is clear that the job of Despatchers cannot be compared with the Junior Foreman and similarly job of Senior Despatching Attendant cannot be compared with the Binder Grade -I. Therefore, there is no justification for the petitioners in contending that the pay of the Despatchers shall be made equivalent to that of the Junior Foreman and similarly the pay of Senior Despatching Attendants to be made equivalent to that of the Binder Grade -I.

8. One of the major discrepancies upon which there is anomaly between



these two categories of employees is that until 4th Pay Commission, the pay structure of Despatchers and Junior Foreman were equal. Similarly the pay of Senior Despatching Attendants was equal to that of the Binder Grade -I.

9. This Court has no clue as to why the pay of the Despatchers and Junior Foreman were equal and similarly as to why the pay of Senior Despatching Attendant and Binder Grade -I are also equal until 4th Pay commission. However, in so far as the 5th Pay Commission is concerned. Considering the nature of jobs and duties as stated above, the basic pay of Despatchers and Junior Foreman were drawn differently. Similarly, the basic pay of Senior Despatching Attendants and Binder Grade-I were drawn differently. The Junior Foreman and Binder Grade -I have been placed in Higher Pedestals when compared to Despatchers and Senior Despatching Attendants. Therefore, this Court is not agreed with the submissions of the learned counsel for the petitioners because the pay of these categories were equal until 4th Pay Commission, anomaly has to be rectified by fixing the same pay for Despatchers and Senior Despatching Attendant equivalent to Junior Foreman and Binder Grade -I, even after fifth pay commission.



10. The learned counsel for the petitioners has referred the judgment of the Hon'ble Supreme Court of India in the case of ***Union of India and Others Vs D.G.O.F. Employees Association and Another.*** reported in ***2023 SCC Online SC 1471*** is as follows:

*“13. Further, what also taken into consideration by the High Court is the historical similarity in pay scales which existed prior to the recommendations in the Sixth CPC. Such historical similarity which had existed was taken note and, in that light, the pay scale which was applicable was taken into consideration and had accordingly arrived at the conclusion that the employees in the headquarters of the Ordnance Factories being similarly placed cannot be discriminated. Therefore, such consideration in the instant case would fall within the parameters as permitted by this Court. Also, in the present circumstances, the High Court has adverted to the fact situation and has thereby rectified the pay anomaly. In fact, the question of parity with regard to the pay scale to the Assistants in the lower formations in the Indian Navy with that of the Assistants in CSS was held as discriminatory and violative of Article 14 of the Constitution by this Court in the case of *All India Naval Clerks Association V. Union of India* in Civil Appeal arising out of Special Leave Petition (Civil) No. 29204 of 2019 dated 27.07.2022”*



11. In the instant case, however, there is no pay disparity. As already observed, until 4th Pay Commission pay was equal. However, from the Fifth Pay Commission onwards different pay structure was introduced.

12. It is submitted by the learned counsel for the petitioners that after alleged anomaly in the pay commission, the petitioners were advised to file representation before the 6th Pay Commission and accordingly the representation was given to the 6th Pay Commission to remove the anomaly. However, the said application was also rejected.

13. The learned Additional Government Pleader has brought to the notice of the judgment of this Court by Co-equal bench passed rejecting the claim of the petitioners who were similarly placed to that of the writ petitioners in W.P.(M.D.)No. 23791 of 2016 is as follows:-

“3. The petitioner has joined as a Warehouse Man in the respondents Stationary and Printing Department, on 24.11.1979. Thereafter, he was promoted as Ware House Clerk and was granted selection grade in the Ware House clerk post. The claim of the petitioner is to keep the petitioner's post as Ware House Clerk on par with Technical Assistant, Junior Forman & Senior Forman, etc. and revised the pay. As per IV Pay Commission, the One Man Committee report, the pay scales were revised as follows:



Sl. No.	Category of post	Existing Pay		Revised Pay	
		Ordinary Scale	Selection Grade Scale	Ordinary Scale	Selection Grade Scale
1.	Warehouse Man	505-845	555-970	610-1075	705-1230
2.	Warehouse Clerk	555-970	705-1230	705-1230	780-1385
3.	Warehouse Keeper	705-1230	780-1385	780-1385	905-1545
4.	Technical Assistant	505-845	555-970	705-1230	780-1385
5.	Junior Foreman	555-970	705-1230	780-1385	905-1545
6.	Senior Foreman	705-1230	780-1385	905-1545	1045-1775

As per the existing scale of pay for the ordinary scale, the Warehouse Clerk was receiving a sum of Rs.555-970, even the Junior Foreman was receiving the same, however in the revised pay for the ordinary scale the Ware Housing Keeper was granted a sum of Rs.705-1230. But, for the Junior Foreman it was revised as Rs.780-1385. Since Ware House Clerk and Junior Foreman were receiving same scale of pay prior to One Man Commission but, subsequently, there were huge differences in the ordinary scale of pay. Therefore, the petitioner is seeking keep the scale of pay on par with the Junior Foremen and revised the pension.

4. The learned counsel appearing for the respondents submitted that the Ware House Clerk is unskilled post, whereas the Junior Foreman is a skilled post. For the Junior Foreman post, the candidates should have completed ITI training and National Council for Vocational Training is necessary, however, for the Ware House Clerk should have passed SSLC only. ”

14. Considering the above discussion, the petitioners are failed to show that there is a anomaly pay between the Despatchers and the Junior Foreman



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and also between the Senior Despatching Attendants and the Binder Grade -I.

Thereby the direction as sought for in this Writ petition cannot be given.

15. Accordingly, this Writ Petition stands dismissed and

Consequently, connected Miscellaneous petition is closed. No costs.

07.03.2024

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Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

To:

1. The Secretary to Government
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Tamil Development, Information and
Public Relations Department,
Fort Saint George,
Chennai – 600 009.
2. The Director of Stationeries and Printing,
No. 110, Anna Salai,
Chennai – 600 002.



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DR. D.NAGARJUN,J.

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