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W.P.No.31480 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.31480 of 2015

and

M.P.Nos.1 & 2 of 2015

K.Bhoopathy

... Petitioner

Vs.

1.The Commissioner,
Salem Corporation,
Salem.

2.The Assistant Commissioner,
Astthampatti Ward Office,
Salem Corporation,
Salem.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.J1/3337/2013 dated 02.09.2014 and the subsequent proceedings issued by the 2nd respondent in Na.Ka.No.J1/3337/2013 dated 07.11.2014 and to quash the same and consequently directing the respondents to make the payment of arrears of salary to the petitioner at the Revised Pay Scale in the Grade Pay of Rs.4400/- with all consequential and other attendant benefits.

*Prayer amended as per order dated 14.11.2024 in W.M.P.No.14386/2018
For Petitioner : Mr.K.Surendran



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For Respondents

: Mr.V.Parthiban for
Mrs.N.Devi
Standing Counsel.

ORDER

This writ petition has been filed aggrieved by the proceedings in Na.Ka.No.J1/3337/2013 dated 07.11.2014 issued by the 2nd respondent refixing the pay of the petitioner in the special grade and thereby ordering for recovery of certain amounts from the petitioner.

2. The petitioner herein was initially appointed as Pipeline Fitter Grade-II in the respondent Salem Corporation on 11.03.1996 and thereafter, he was categorized as Skilled Assistant Grade-II and subsequently, he was promoted to the post of Skilled Assistant Grade-I on 15.11.2002. In the said post, the scale of pay of the petitioner was fixed at Rs.4,000 - 6,000/- with effect from 01.01.2003 and on completion of ten years of service, he was granted selection grade and accordingly, his pay was fixed through proceedings in Na.Ka.No.J1./3337/2013 dated 20.12.2013 by extending the benefit of Government Letter No.63305/Pay Cell/2010-1, dated 08.11.2010 granting grade pay of Rs.4,400/-. The said fixation of pay of selection grade was sought to be revised by the respondent Corporation, by issuing a



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memorandum dated 02.09.2014, on the ground that the clarification issued through Letter dated 08.11.2010 has no application to the employees who were awarded selection grade/special grade after 01.01.2006 i.e., after coming into force of the Revised Scales of Pay, 2009, but the petitioner was extended the said benefit erroneously. Thus, it is stated that the petitioner is entitled only for award of 3% increments on granting selection grade in the revised pay scales.

3. In response to the same, the petitioner submitted a representation dated 31.10.2014 stating that, in case of any erroneous fixation, the amounts can be recovered. It was pursuant to the said memorandum dated 02.09.2014 read with application of the petitioner dated 31.10.2014, the 2nd respondent issued the impugned proceedings dated 07.11.2014 ordering for recovery of certain amounts said to have been paid in excess of entitlement of the petitioner.

4. The learned counsel for the petitioner contended that the petitioner is entitled to the benefit of letter dated 08.11.2010, issued by the Government, by placing reliance on Clause (ii) of Paragraph 4 of the said Letter, on the ground that the petitioner has exercised his option to come over



to the revised scales of pay subsequent to 01.01.2006. In support of his contention, he also placed reliance on note appended to Annexure-1 of the said Letter dated 08.11.2010.

5. This Court has carefully considered the submissions made by the learned counsel for the petitioner and also perused the said letter dated 08.11.2010. Clause 2 of Paragraph 4 of the Letter dated 08.11.2010 reads as under:

“4.(ii) The above revised Selection Grade/Special Grade scales of pay indicated in the Annexure-I to this letter shall be confined only to the employees who were awarded Selection Grade / Special Grade prior to 1-1-2006 and in the case of employees who have exercised their option to come over to the revised scales of pay on the date of their award of Selection Grade/ Special Grade between 1-1-2006 and 31-5-2009, (prior to the issue of G.O. Ms.No.234, Finance (Pay Cell) Department, dated: 1-6-2009.)”

6. A perusal of the above Clause (ii) makes it clear that the employees who were awarded Selection Grade/Special Grade prior to 01.01.2006, and the employees who have exercised their option to come over to the revised scales of pay on the date of their award of Selection Grade/Special Grade between 01.01.2006 and 31.05.2009, are only entitled for Selection Grade/Special Grade indicated in Annexure-1 to the said letter



dated 08.11.2010.

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7. The petitioner herein was admittedly became entitled for award of selection grade on 15.11.2012 i.e., much after 31.05.2009. It is not that all the employees who have opted to come over to the revised scales of pay are entitled for the scales of pay indicated in the Annexure-1 to the said letter. But it is only those who were awarded Selection Grade/Special Grade prior to 01.01.2006, and opted to come over to the revised scales of pay between 01.01.2006 and 31.05.2009, are made entitled for the scales of pay mentioned in the Annexure-1 to the said letter. Further, from perusal of the clause (iv) of paragraph 4 of the said letter, the issue is further made clear. Clause (iv) of the Paragraph 4 of the said letter dated 08.11.2010 reads as under:

“4.(iv) The above revised Selection Grade/Special Grade scales of pay is not applicable to the employees moving to Selection Grade / Special Grade posts on or after 1-6-2009 since these employees are awarded Selection Grade/ Special Grade directly in the revised scales of pay and therefore entitled for one increment benefit equal to 3% of basic pay plus grade pay on the date of award of Selection Grade / Special Grade as ordered in para-4 of G.O.Ms.No.234, Finance (PC) Department, dated: 1-6-2009.”

8. From the above, it is evident that the employees who move to the Selection Grade/Special Grade on or after 01.06.2009 are not entitled for the scales of pay mentioned in the Annexure-1 to the said letter, as the said



employees were awarded selection grade/special grade directly in the revised scales of pay and therefore, they are entitled for one increment benefit equal to 3% of basic pay plus grade pay on award of Selection Grade/Special Grade in terms of para-4 of G.O.Ms.No.234, Finance (OC) Department, dated 01.06.2009. Thus, from the above Clause (iv), it is amply clear that the petitioner who was awarded selection grade with effect from 15.11.2012 i.e., after 01.06.2009, under no circumstances can be said to be a person entitled for the scales of pay mentioned in Annexure-1 to the letter dated 08.11.2010. It is the said benefit that was extended to the petitioner in terms of letter dated 08.11.2010 through proceedings in Na.Ka.No.J1./3337/2013 dated 20.12.2013 is now sought to be withdrawn through the impugned proceedings. As the said letter dated 08.11.2010 is clear in its terms and specifically dis-entitles the employees who were awarded Selection Grade/Special Grade after 01.06.2009, the question of petitioner claiming the benefit of the said letter and the scales of pay provided in Annexure-1 to the said letter dated 08.11.2010 is totally misconceived.

9. In the circumstances, as the impugned order is issued in terms of the letter dated 08.11.2010 only refixing the pay of the petitioner by awarding one increment benefit equal to 3% of basic pay plus grade pay, this Court



does not find any error or illegality in the impugned order passed by the 2nd respondent.

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10. In the circumstances, this Court does not find any merit in the writ petition and the same is accordingly, dismissed. The connected miscellaneous petitions, if any, shall stand closed. No costs.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

MUMMINENI SUDHEER KUMAR, J.

dpa

To



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