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W.P.No.7062 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.01.2024

CORAM:

THE HONOURABLE JUSTICE Dr. JUSTICE D. NAGARJUN

Writ Petition. No.7062 of 2015

G. Venkatachalam

... Petitioner

Vs.

1. The Principal Secretary to Government,
Home (Police-IV) Department,
Secretariat, Chennai-600 009.

2. The Director General of Police,
Mylapore,
Chennai 600 004.

3. The Superintendent of Police,
Salem District- 636 006.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking to issue a Writ of Mandamus, directing the respondents herein to implement the benefits of revision and refixation of pay of the petitioners herein on pay with their juniors in the light of the order issued by the Commissioner of Police, Coimbatore City in and by his proceedings No.CPO1545/2011 C.No.Y3/23027/2011 dated 08.10.2011 and to grant



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them all consequential monetary benefits and to revise their retirement and pensionary benefits and to revise their retirement and pensionary benefits with all consequential benefits.

For Petitioner : M/s.S.Senthil

For Respondents : Mr.P.Gurunathan
Additional Government Pleader

ORDER

This Writ Petition is filed seeking for direction to the respondents herein to implement the benefits of revision and refixation of pay of the petitioners herein on pay with their juniors in the light of the order issued by the Commissioner of Police, Coimbatore City in and by his proceedings No.CPO1545/2011 C.No.Y3/23027/2011 dated 08.10.2011 and to grant them all consequential monetary benefits and to revise their retirement and pensionary benefits and to revise their retirement and pensionary benefits.

2. The petitioner was appointed as Grade II Police Constable on 14.07.1978 and later promoted as Grade I Police Constable in Salem Local in the year 1995 and thereafter promoted to the Head Constable on 04.01.2000 and then as Special Sub Inspector of Police on 07.01.2010 and retired from service on 31.05.2013, on attaining the age of superannuation.



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WEB COPY 3. Similarly, one Thiru. Eswaran, who was initially appointed in 1981 belongs to Tamil Nadu Special Police Establishment, was working as Grade II (Category I) in the year 1993, along with with 34 others, was transferred to Armed Reserve Police as Grade II Police Constable (Category II). Later they were promoted as Grade I Police Constable in the year 1993 and became Head Constable in the year 2000.

4. Thiru. Eswaran and others filed an application before the Tamil Nadu Administrative Tribunal in O.A.No.10317 of 1997 and obtained interim orders, and Original Application was allowed on 06.04.2004. In such circumstances, the said Eswaran and others, who were originally belonged to Tamil Nadu Special Police Establishment and later transferred to Armed Reserve were drawing higher pay than that of their seniors, who are already working in Armed Reserve Wing. The said seniors preferred various representations seeking to set up their scale of pay on par with then juniors. They also filed W.P.No.9527 and 9528 of 2006 for direction to fix the scale of pay on par with their juniors. This Court by orders dated 13.09.2010 while placing reliance on the judgment of Hon'ble Apex Court in ***“Gurcharan Sing Grewal and another Vs. Punjab State Electricity Board***



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reported in 2009 (3 SCC 94), has observed that senior cannot be paid a lesser salary than his juniors. The operative portion of the above said order is extracted as hereunder:

“Going by the above referred to decision of the Apex Court that there shall not be pay disparity and that the seniors cannot be paid less than their juniors, the petitioners' claim merits to be accepted. Consequently, the Writ Petitions are allowed holding that the Petitioners are entitled to have their basic pay fixed on par with the basic pay of persons who were transferred from Tamil Nadu Special Police Establishment to Coimbatore City Police by Stepping up the basic pay of the petitioners”.

5. Considering the above facts of the case, there shall not be any disparity and the seniors shall not be paid less than the juniors. Therefore petitioner's claim has to be considered.

6. Accordingly, the Writ Petition is allowed directing the respondents to consider, the refixation of the pay of the petitioner on par with Thiru.Eshwaran, junior to the petitioner in the light of the orders issued by



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the Commissioner of Police, Coimbatore City vide Proceedings

No.CPO.1545/2011 C.NO.Y3/23027/2011 dated 08.10.2011 and to grant

him all consequential monetary benefits, thereby to revise his retirement and pensionary benefits, in case, if he is otherwise eligible. No costs.

02.01.2024

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Index:Yes/No

Speaking Order: Yes/No

To

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Home (Police-IV) Department,
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3. The Superintendent of Police,
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Dr.D. NAGARJUN, J.

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