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W.P.No.16438 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.No.16438 of 2023

N.Govindasamy

... Petitioner

Vs.

1.The Registrar General,
Madras High Court,
Chennai.

2.The Principal District Judge,
Dharmapuri.

3.The Office of the Accountant General (A&E),
No.361, Anna Salai, Teynampet,
Chennai – 600 018.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned report in D.No.942/2022 dated 18.02.2022 and proceedings in Roc No.6314/2022 dated 18.02.2022 issued by the 2nd respondent-Principal District Judge, Dharmapuri and quash the same as illegal and consequently direct the 1 to 3 respondents to revise the pay scale of the petitioner with Grade Pay of Rs.4,900/- as per the G.O.Ms.No.705, Home (Courts)



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Department dated 08.10.2015 & G.O.No.303 dated 11.10.2017 issued by the Finance (Pay Cell) Department, Government of Tamil Nadu and pay the retirement benefits and pension based on the Revision of Pay.

For Petitioner : Mr.R.Venkatesulu
For Respondents : Mr.V.Vijay Shankar

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

The Writ Petitioner was initially appointed as Gardener on 23.10.1979 and promoted to the posts of Process Server, Senior Bailiff, Junior Assistant, Assistant, Bench Clerk Grade-II, Head Clerk. Finally the petitioner was promoted as Central Nazir in the Principal District Court, Dharmapuri and served from 01.08.2016 to 31.05.2017 and reached the age of superannuation on 31.05.2017 and writ petitioner was allowed to retire from service.

2. Mr.R.Venkatesulu, the learned counsel on behalf of the writ petitioner would mainly contend that the pre-revised pay band of Central Nazir (PB-2) was Rs.9300-34,800+G.P.4,800/-. The revised pay matrix of Central Nazir in Level No.18 was fixed as Rs. 37,200-1,17,600/-.



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3. Based on the above fixation, the learned Counsel for the petitioner drew the attention of this Court with reference to G.O.Ms.No.303 Finance (Pay Cell) Department dated 11.10.2017 i.e., Tamil Nadu revised Pay Rules 2017. As per Schedule-I, list of levels of pay, S.No.11 to 20 falls under PB-2. Relying on S.No.19, Group-B, the learned Counsel for the petitioner reiterated that the Grade Pay of Rs.4,900/- must be fixed for revised level of pay of Rs.37,200– 1,17,600/-.

4. Since the respondents have fixed the Grade Pay of Rs.4,800/-, which was pre-revised Grade Pay, the petitioner has chosen to file the present writ petition seeking a relief to revise the Grade Pay from Rs.4,800/- to Rs.4,900/-.

5. The 2nd respondent filed a counter affidavit stating as follows:

“7. ...as per the G.O.Ms.No.705 Home (Courts-V) Department Dated:08.10.2015 the order is specific that the Senior Sherishtadar of the court of Civil Judge Senior Division only eligible for the Grade Pay Rs.4,900/- so other equivalent posts like Central Nazir and others are not entitled for the benefits of that G.O. enhancing for the Grade Pay Rs.4,900/-. If



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the individual is not at all entitled for the Grade Pay Rs.4,900/- in the entire stage, then the pay of the individual cannot be fixed in the pay matrix applicable to Grade Pay Rs.4,900/- as per the G.O.Ms.No.303, Finance (Pay Cell) Department, Dated: 11.10.2017. Hence, his pay was revised as per the proceedings of this court in Roc.No.6314/2022, Dated:17.02.2022 and a report was also submitted to the Hon'ble High Court, Madras and the same was accepted by the Hon'ble High Court, Madras under Official Memorandum in Roc.No.78895/2021/C1, Dated: 31.03.2022."

6. We have considered the rival submission made on behalf of the parties to the *lis* on hand.

7. The petitioner was allowed to retire from service in the year 31.05.2017. It is not in dispute that the pre-revised pay of the petitioner in the cadre of Central Nazir was fixed in PB-2 of Rs.9,300-34,800 + G.P.Rs.4,800/-.

8. Pursuant to the recommendations of the Official Committee 2018 on revision of pay, allowances, pension and relative benefits, Tamil Nadu revising the Pay Rules 2017 was notified by the Government in



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G.O.Ms.No.303 Finance (Pay Cell) Department dated 11.10.2017. Schedule-I

provide list of levels of pay. Clause - 3 of the Pay Rules provides definition.

Sub-clause (ii) of Clause-3 defines “**existing Pay Band and Grade Pay**” in relation to a Government Employee means the Pay Band and the Grade Pay applicable to the post held by the Government Employee, whether in a substantive capacity or in officiating capacity, on the date of migration to revised pay structure opted by him under rule6.” Sub-clause (vii) of Clause-3 defines “**revised pay structure**” in relation to a post means the pay matrix and the Levels specified therein corresponding to the existing pay bank and Grade Pay of the post unless a different revised Level is notified separately for that post.”

9. Schedule -I to the Pay Rules provides list of levels of pay as follows:



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Sl. No.	Group	Existing Scales of Pay		Revised Levels of Pay		
		Pay Band	Grade Pay	Level	Minimum	Maximum
[1]	[2]	[3]	[4]	[5]	[6]	[7]
1	D	PB-1A Rs.4800-10000	1300	1	15700	50000
2	C		1400	2	15900	50400
3	C		1550	3	16600	52400
4	C	PB-1 Rs.5200-20200	1800	4	18000	58900
5	C		1900	5	18200	57900
6	C		2000	6	18500	58500
7	C		2200	7	19000	60300
8	C		2400	8	19500	62000
9	C		2600	9	20000	63600
10	C		2800	10	20600	65500
11	C	PB-2 Rs.9300-34800	4200	11	35400	112400
12	C		4300	12	35600	112800
13	B		4400	13	35900	113600
14	B		4450	14	36000	114000
15	B		4500	15	36200	114800
16	B		4600	16	36400	115700
17	B		4700	17	36700	116200
18	B		4800	18	36900	116600
19	B		4900	19	37200	117600
20	B		5100	20	37700	119600
21	B	PB-3 Rs.15600-39100	5200	21	55500	175700
22	B		5400	22	56100	177600
23	B		5700	23	56900	180600
24	B		6000	24	57700	182400
25	A		6600	25	59300	187700
26	A		7600	26	61900	198700
27	A		7700	27	62200	197200
28	A	PB-4 Rs.37400-87000	8700	28	123100	216900
29	A		8800	29	123400	218300
30	A		8900	30	123600	218600
31	A		9500	31	125200	219800
32	A		10000	32	128900	225000



10. The last drawn pay fixed at the time of retirement of the petitioner was Rs.21,200 (Rs.16,400 +GP Rs.4,800/-). Fixation of Grade Pay to a sum of Rs.4,800 is questioned by the petitioner.

11. Now let us see Schedule-I of the Pay rules, which would indicate existing scale of pay of PB-2, Rs.9,300-34,800/-. The existing scale of pay includes the Grade Pay, which was fixed in the pre-revised scale of Pay. The schedule unambiguously indicates that there is no revision of Grade Pay granted to certain categories. Pay Band -2 is applicable to various categories, more specifically, for Group-B and C and Sl.No.11 to 20 in the fitment table. When revised level of pay has been fixed to various categories, the existing Grade Pay in the pre-revised scale of pay was not revised by the Pay Commission. The very Schedule notified would unambiguously indicate that there is no revision of Grade Pay granted along with the revised level of pay. That exactly is the reason, the learned Principal District Judge, Dharmapuri in proceedings dated 08.02.2022 categorically granted the revised pay matrix to the petitioner in the cadre of Central Nazir as under:

Pre-revised pay band of Central Nazir PB-2- Rs.9,300 – Rs.34,800 + GP-Rs.4,800/-.



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Revised pay matrix of Central Nazir in Level No.18 is Rs.37,200 –
1,17,600/-.

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12. Even in the fixation proceedings, the Grade Pay of Rs.4,800/- has not been revised to Rs.4,900/- as claimed by the petitioner. The Pay Rules are clear that the Grade Pay fixed in the existing scale of pay was not revised. Therefore, we do not find any infirmity in fixation of Grade Pay of the petitioner as Rs.4,800/-.

13. Learned Counsel for the respondents would submit that there was no change in the Grade Pay, while fixing the revised level of pay as per G.O.Ms.No.303 Finance (Pay Cell) Department dated 11.10.2017. The existing scale of pay except Grade Pay was revised in Schedule-I. Therefore, the Grade Pay of Rs.4,800/- was not enhanced to the petitioner. Grade Pay of Rs.4,900/- is applicable to the cadre of Senior Sheristadar alone. Thus, the claim of the petitioner is untenable.



14. In the case of ***Union of India & Ors. Vs. Dineshan K.K.***

reported in ***Manu/SC/0395/2008***, the Supreme Court observed that equation of posts and equation of pay structure being complex matters are generally left to the Executive and expert bodies like the Pay Commission etc. It has been emphasized that a carefully evolved pay structure ought not to be ordinarily disturbed by the Court as it may upset the balance and cause avoidable ripples in other cadres as well.

15. Granting Pay Scale is purely Executive function and hence Courts should not interfere with the same. In the present case, the Establishment has fixed the scale of pay and the said revised scale of pay granted is reiterated in the Counter affidavit filed by the respondent.

16. As far as the Sub-ordinate Courts are concerned, for the posts of Sheristadar (SJ Cadre), Superintendent of Copyists/Record Keeper, Translator (DJ cadre), Deputy Nazir/Central Nazir, Head Clerk (District Court/SubJudge/District Munsif) carry the Grade Pay of Rs.4,800/- at Level No. 18.



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17. When all the above cadres are entitled to have a Grade Pay of Rs.4,800/-, the claim of the petitioner to revise Grade Pay from Rs.4,800/- to Rs.4,900/- is untenable.

18. We have independently considered the scope of the re-fixation with reference to the G.O.Ms.No.303, Finance (Pay Cell) Department dated 11.10.2017. Though it appears for the revised level of pay, the Grade Pay is to be granted Rs.4,900/-, the petitioner has wrongly understood that the Grade Pay was also revised along with the revised level of pay. Even as per Schedule-I the Grade Pay is included in the existing scale of pay and the revised level of pay has been stated separately.



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19. Therefore, we do not find any infirmity in respect of the revised level of pay granted to the petitioner along with a Grade Pay of Rs.4,800/-
Consequently, the writ petition stands dismissed. No costs.

[S.M.S.J.] [K.R.S.J.]
27.03.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
veda

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