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W.P.No.31681 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.31681 of 2016

- 1.V.R.Nandhakumar
- 2.S.R.Padmanaban
- 3.P.Venkatapathy
- 4.T.Ravi
- 5.P.Shanmugam
- 6.K.Baskaran
- 7.R.Ganesan
- 8.N.Ganesan
- 9.K.Rajendran
- 10.R.Pughzhanthi
- 11.V.K.Thirunavukarasu
- 12.D.Sivalingam
- 13.D.Dhanasekaran
- 14.T.Subramanian
- 15.M.Moorthy
- 16.J.Janakiraman
- 17.K.Deenan
- 18.T.Murthy
- 19.E.Deivasigamani



W.P.No.31681 of 2

20.L.Balakrishnan

Vs.

... Petitioners

1. The Government of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Home (Court V) Department,
Secretariat, Chennai – 600 009.

2. The Principal Secretary to Government,
Finance Department,
Secretariat, Chennai – 600 009.

3. The Registrar General,
Madras High Court,
Chennai – 600 104.

4. The Registrar,
City Civil Court,
Chennai – 600 104.

5. The Registrar (IT -cum- Statistics),
Registrar (District Judiciary in charge),
High Court, Chennai – 600 104.

6. The Government of Tamil Nadu,
Represented by Additional Secretary to Government,
Home (Court V) Department,
Secretariat, Chennai – 600 009.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling further records relating to the orders in (i) G.O.Ms. No. 450, Home (Courts V) dept. dated 11.08.2011 of the first Respondent (ii) Government letter No.45119/ Cts.V/ 2012-2, dated 22.08.2013 of the 6th Respondent (iii) memorandum Dis No.6045/ E2/ 2013 dated 30.04.2013 (wrongly mentioned as 31.04.2013) of



the 4th Respondent (iv) Government Letter No. 74166/ Cts.V/ 2015-3 dated 03.03.2016 of the first Respondent and (v) Letter ROC No.1571/ 2015 G2 dated 15.04.2016 of the 5th Respondent, to quash the orders in (i) and (ii) to the limited extent of omission to include the drivers to be eligible for the benefit of one increment w.e.f 01.04.2003 on the existing pay scale admissible to them and quash the other order in its entirety and consequently direct the respondents to grant the increment covered by the said orders to the petitioner from 01.04.2003 and to grant them all consequential benefits.

For Petitioner : Mr.M.Ravi

For R1, R2 & R6 : Mr.P.Anandakumar,
Government Advocate

For R3 to R5 : Mr.S.Haja Mohideen Gisthi

ORDER

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

The Writ Petition has been filed for grant of one increment with effect from 01.04.2003 to the writ petitioners on the existing scale of pay on par with the other employees working in various cadres.

2. The writ petitioners are working as Drivers in District Judiciary.

Pursuant to the recommendations of Shetty Commission, one increment was



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sanctioned at the initial rate of pay scale in respect of certain common category posts. Accordingly, one increment was granted to the employees working in common categories. The post of Driver is a distinct category. The Government order in G.O (Ms) No.1011, Home (Cts.V) Department dated 07.12.2010 stipulates grant of one increment at the initial rate of pay scale admissible to the Junior Assistants/Nazir Assistants. However, the said Government order did not specify about sanction of one increment at initial rate to the post of Driver. Thus, as per the Government order, the writ petitioners are not eligible for grant of one increment at initial rate, as granted to the employees working in the cadre of Junior Assistant/Nazir Assistant. High Court sought for clarification from the Government as to whether the post of Driver in the Subordinate Judiciary are eligible for sanction of one increment at the initial rate of pay scale as mentioned in G.O (Ms) No.1011, Home (Cts.V) Department dated 07.12.2010. The Government vide letter dated 03.03.2016 in Paragraph No.4 has stated as follows:-

“ the recommendations of one increment to drivers is not as per the Justice Shetty Commission recommendations. Therefore, the grant of one increment to the Drivers in 8 Districts is irregular and therefore, the above benefit cannot be extended to the Drivers of other Districts. The



erroneous extention of benefiti of G.O (Ms)No.1011, Home (Courts-V) Department dated 07.02.2010 to the Driviers in 8 Districts has to be rectified. Therefore, the orders sanctioning one increment to the 8 Districts may be cancelled and the payment now being made may be suspended immediately and the excess payment so far made be arranged to be recovered from the drivers after giving a due notice to the individuals and also requested the High Court to send the action taken report in this regard to the Government in due course.”

3. The Shetty Commission was implemented long back and the post of Drivers were not sanctioned one increment at the initial rate of pay scale. It is a decision taken which cannot be now interfered with by the High Court, since it is regarding grant of increment to various cadres. The post of Driver is a distinct category and therefore, they cannot claim benefits on par with the employees working in the cadre of Junior Assistant/Nazir Assistant.

4. The learned Special Government Pleader drew our attention with reference to the counter-affidavit filed by the Government, wherein in Paragraph No.10, the Government has stated as follows:-

“ 10. It is submitted that the Government, by Letter No.74166/Courts-V/2015-3, dated 03.03.2016, in paragraphs 3 and 4, have clarified as follows:



"3....In G.O.(Ms) No.1011, Home (Courts-V) Department, dated 07.12.2010 and subsequently in G.O.(Ms) No.450, Home (Courts-V) Department, dated 11.08.2011, the benefit was extended to the ministerial cadres also. However, in any of these Government Orders no mention was made about drivers. Only a Special Allowance of Rs.150/- p.m. has been recommended to be sanctioned for drivers. In the Shetty Commission recommendation provision has been made only for sanction of Special Allowance of Rs.150/- p.m. for drivers.

4. It may be seen therefrom that the recommendation of one increment to drivers is not as per the Justice Shetty Commission recommendations. Therefore, grant of increment to the Drivers in 8 Districts is irregular and therefore, the above benefit cannot be extended to the Drivers of other Districts. The erroneous extension of benefit of G.O.(Ms) No.1011, Home (Courts-V) Department 07.12.2010, to the Drivers in 8 Districts has to be rectified. Therefore, the orders sanctioning one increment to the 8 Districts may be cancelled and the payment now being made may be suspended immediately and the excess payment so far made may be arranged to be recovered from the Drivers after giving a due notice to the individuals."

5. The order passed by the Government in G.O (Ms) No.1011, Home (Cts.V) Department dated 07.12.2010 has been upheld by the Hon'ble



Division Bench of this Court vide order dated 17.04.2017 passed in
W.P.No.2446 of 2015.

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6. For all these reasons, the writ petitioners are not entitled for the claim as set out in the present Writ Petition, consequently the Writ Petition stands dismissed. No costs.

(S.M.S.,J.) (K.R.S.,J.)
01.03.2024

skr

Index : Yes

Speaking order

To

1. The Principal Secretary to Government of Tamil Nadu,
Home (Court V) Department,
Secretariat, Chennai – 600 009.
2. The Principal Secretary to Government,
Finance Department,
Secretariat, Chennai – 600 009.
3. The Registrar General,
Madras High Court, Chennai – 600 104.



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4. The Registrar, City Civil Court,
Chennai – 600 104.
5. The Registrar (IT -cum- Statistics),
Registrar (District Judiciary in charge),
High Court, Chennai – 600 104.
6. The Additional Secretary to Government of Tamil Nadu,
Home (Court V) Department,
Secretariat, Chennai – 600 009.



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S.M.SUBRAMANIAM, J.
and
K.RAJASEKAR, J.

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