



W.P.No.11997 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2024

CORAM

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.11997 of 2020

and

W.M.P.No.14728 of 2020

R.Saravanan

S/o.P.Rangasamy

...Petitioner

Vs.

- 1.The Joint Secretary to Government,
Health & Family Welfare (L1) Department,
Fort St.George, Chennai-9
- 2.The Secretary to Government,
Finance (Pay Cell) Department,
Fort St.George, Chennai-9,
- 3.The Director of Public Health &
Chennai-6
- 4.The Joint Director (Administration)
Public Health & Preventive Medicine
Chennai-6.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, praying to call for the records of the 1st respondent in connection with the impugned order passed by him in Letter No.Ms.28 Health & Family Welfare (L1) Dept. dated 23.01.2020 and the consequential order passed by the 4th respondent in Na.Ka.No.64915/E2/S3/2019 dated 04.02.2020 and quash the same and direct the respondents to revise the salary of the petitioner in the pay scale of Rs.5200-20200+GP1900 at par with similarly placed persons, draw and disburse the same with a reasonable time and grant such other further relief as this Court.

For Petitioner : Mr.K.Venkataramani
Senior Counsel
for Mr.M.Muthappan
For Respondents : Mr.V.M.Ravichandran
Special Government Pleader for R2
Mr.E.Sundaram
Government Advocate for R1,3 &4

ORDER

The petitioner herein was initially appointed as Office Assistant in the Public Health Department i.e., in the Office of the 3rd respondent and was promoted to the post of Lift Operator through proceedings Na.Ka.No.64915/E3/S3/2016 dated 01.08.2018 and on promotion his pay was fixed at Rs.4800/- to 10,000 +



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Grade Pay of Rs.14,100/-, in terms of G.O.Ms.No.297 Health and Family Welfare (AB 2) Department dated 24.08.2017 and thereafter, the petitioner and another person namely M.Arun made a representation for extending the Grade pay of Rs.1900/- instead of Rs.1400/- by placing reliance on G.O.Ms.No.338 Finance (Pay Cell) Department dated 26.08.2010. The request of the petitioner was considered and the same was found not feasible for consideration as the petitioner does not possess qualification of ITI in order to extend the benefit of G.O.Ms.No.338 Finance (Pay Cell) Department dated 26.08.2010. However, the 3rd respondent herein through letter R.No.64915/E3/S3/2016 dated 20.08.2019 sought for clarification from the 1st respondent. It is on considering the said request of the 3rd respondent, the 1st respondent issued the impugned order dated 23.01.2020 stating that the petitioner, who does not possess the ITI qualification is not entitled for the benefit of G.O.Ms.No.338 Finance (Pay Cell) Department dated 26.08.2010 i.e. the benefit of Grade pay of Rs.1900/-. Pursuant to the said proceedings dated 23.01.2020, the 3rd respondent issued the proceedings dated 04.02.2020 informing the petitioner that he is not entitled for the said benefit. It is aggrieved by the said proceedings dated 23.01.2020 and consequential proceeding dated 04.02.2020, the petitioner approached this Court by filing the present writ petition.



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2.The respondents filed a counter affidavit contending that in terms of G.O.Ms.No.338 Finance (Pay Cell) Department dated 26.08.2010, the person who possess the qualification of ITI classified as unskilled person and were extended the benefit of scale as provided under the said G.O. The petitioner does not possess the said qualification and hence he is not entitled for the benefit of same.

3. In addition to the claim made by the petitioner, basing upon G.O.Ms.No.338 Finance (Pay Cell) Department dated 26.08.2010, the petitioner also made a claim for extending the benefit of grade pay of Rs.1900/- on the ground that similarly situated persons were extended the said benefit.The petitioner has categorically stated in paragraph No. 6 of the said affidavit that one person namely J.Asirvadhdam, who was promoted to the post of Office Assistant from the post of Lift Operator does not possess the ITI qualification but he was extended the benefit of Grade pay of Rs.1900/- and a copy of the proceedings under which the said Ashirvadham was extended the said benefit was also placed on record i.e., Proceedings in Ref.No.44356/OP1/2/2014 dated 17.10.2015. In addition to the said proceedings, another proceeding pertaining B.Muthukandhan who is wroking as Lift Operator in Rajiv Gandhi Government General Hospital is also placed on record, i.e. the proceedings



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Ref.No.5941/E5/3/2016 dated 11.04.2016. The said proceedings shows that the said individual was granted pay scale of Rs.4800-10000+1400 GP and the pay was revised to Rs.5200-20200+1900 GP with effect from 01.01.2010 in terms of G.O.Ns.No.338 dated 26.08.2010. The said two persons namely Asirvadham and B.Muthukanthan are also persons promoted to the post of Lift Operator from the post of Office Assistant in Public Health Department and and they do not possess the ITI Certificate and they were extended the benefit of revised pay scale of Rs.5200 to 20200+1900 Grade pay. If the petitioner is also similarly situated, it is not understandable as to how the petitioner can be denied the said benefit. Inspite of the specific averment made in paragraph No.6 of the affidavit and above said two proceedings issued in favour of J.Asirvadham and B.Muthukanthan were placed on record, the counter affidavit filed by the respondents is totally silent on this aspect. Though this Court prima facie is in agreement with the contention of the respondents that the petitioner herein was not entitled for extending the benefit G.O.Ms.No.338 dated 26.08.2010, this Court is of the considered view that when similarly situated persons like the petitioner were extended the benefit of revised pay scale with Grade pay of Rs.1900/- the petitioner cannot be denied. In the circumstances, this Court is of considered view that the respondents should reconsider the claim of the



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petitioner for grant of revised pay on par with similarly situated persons.

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Accordingly, the writ petition is disposed of permitting the petitioner to submit a representation before the 3rd respondent within a period of three weeks from the date of receipt of a copy of this order. In case, if any such representation is made, 2nd respondent shall consider the same and in case, if the above said two persons namely J.Ashirvadham and B.Muthukanthan are found to be similarly situated like the petitioner herein and were extended the benefit of revised pay scale through proceedings Ref.No.44356/OP1/2/2014 dated 17.10.2015 and Ref.No.5941/E5/3/2016 dated 11.04.2016 and said benefit is being continued, the petitioner shall also be extended the same benefit. The entire exercise, as directed above, shall be completed by the 3rd respondent as expeditiously as possible at any rate within a period of two months from the date of submission of the representation by the petitioner.

4. Accordingly, the writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

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vsn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



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