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WP.No.17009 of 2023

In the High Court of Judicature at Madras

Dated : 14.10.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.17009 of 2023

K.L.Radhakrishnan

Vs

...Petitioner

1.Government of Tamil Nadu, rep.
by its Principal Secretary,
Municipal Administration &
Water Supply Department,
Fort St.George, Chennai-9.

2.The Secretary, Finance
Department, Government of
Tamil Nadu, Fort St.George,
Chennai-9.

3.Greater Chennai Corporation,
rep.by its Commissioner,
Ripon Building, Chennai-3.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Declaration declaring the action of the 3rd respondent in not fixing the petitioner in the pay scale of Rs 1100-1660 in the Grade I post in terms of G.O.Ms.No.511 dated 01.8.1992 read with G.O.Ms.No.666 dated 27.6.1989 in the post of Motor Mechanic, which is a skilled Assistant Grade I and instead fixing in the



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pay scale of Rs.950-1500, which is the pay scale in respect of Grade II as illegal, arbitrary and contrary to law and consequently direct the respondents to fix the pay in respect of the petitioner in the pay scale of Rs.1100-1660 from the date of joining viz. 16.4.1991 in terms of G.O.Ms.No.511 dated 01.8.1992 read with G.O.Ms.No.666 dated 27.6.1989 and also in terms of the fixation done in respect of V.Balaji, who is similarly placed in terms of the orders of this Court dated 09.3.2012 in W.P.No.40108 of 2006 and on that basis, revise the pension, rework the commuted value of pension, pay arrears of pension and arrears of other terminal benefits.

For Petitioner	:	Mr.Balan Haridas
For R1 & R2	:	Mr.C.Selvaraj, AGP
For R3	:	Mr.S.Gopinathan, Standing Counsel

ORDER

This writ petition has been filed seeking for the issuance of a Writ of Declaration to declare the action of the third respondent in not fixing the pay scale of the petitioner at Rs.1100-1660 in terms of G.O.Ms.No.511 dated 01.8.1992 read with G.O.Ms.No.666 dated 27.6.1989 in the post of Motor Mechanic, which is a skilled Assistant Grade I and instead fixing the pay scale of the petitioner at Rs.950-1500 treating the petitioner as Grade II employee as illegal, arbitrary



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and contrary to law and consequently direct the respondents to fix the pay of the petitioner in the pay scale of Rs.1100-1660 in terms of the said Government Orders and in terms of the fixation done to a similarly placed person in G.O.Ms.No.326 dated 24.6.2013.

2. Heard the learned counsel for the petitioner and the respective learned counsel appearing on behalf of both respondents 1 and 2 as well as the third respondent.

3. The case of the petitioner is as follows :

(i) The petitioner joined the Chennai Corporation in the year 1991. After rendering 27 years of service, the petitioner attained the age of superannuation on 31.5.2018. On the verge of retirement, the terminal benefits of the petitioner were not settled and it was informed that a sum of Rs.7,86,914/- was recovered from the terminal benefits. He completed S.S.L.C and I.T.I. in Motor Mechanic Trade and is entitled to the pay scale of Rs.1100-1660.

(ii) Earlier, the petitioner filed W.P.No.12998 of 2019 challenging the recovery and also for fixation of pay in line with the pay that was fixed to one Mr.V.Balaji pursuant to the order passed by a learned Single Judge of this Court in W.P.No.40108 of 2016 dated 09.3.2012. The said writ petition filed by the petitioner was heard along with a



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batch of writ petitions on the same issue of recovery. Ultimately, all the writ petitions were disposed of by a common order dated 23.12.2021 in the following terms :

"96. In the result, these writ petitions are allowed with the following directions :

i. There shall be no recovery of any amounts paid to the petitioners;

ii. Any recovery made so far/withheld pursuant to the impugned proceedings/orders shall be repaid to the respective petitioners within a period of 120 days from the date of receipt of a copy of this order.

iii. The petitioner in W.P.No.10277 of 2020 (D.Gurumurthy) is entitled for step up of the pay scale conferred on the other petitioners.

iv. The respondents shall calculate the arrears and pay the same to the petitioner in W.P.No.10277 of 2020 (D.Gurumurthy) within a period of 120 days from the date of receipt of a copy of this order.

v. There shall be no downward the re-fixation of pay/pensions of the respective petitioners.

vi. The respondents shall take steps to get a Government Order ordered above to be issued within a period of 180 days from the date of receipt of a copy of this order and to bring a closure to the issue once for all."

(iii) Pursuant to the said common order dated 23.12.2021, the petitioner was placed in the pay scale of Rs.950-1500 by considering him as coming under Grade II and the proceedings dated 22.9.2022 came to be issued by the concerned Superintending Engineer of the third respondent - Corporation. It is under these circumstances, the



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present writ petition has been filed before this Court.

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4. A counter has been filed on behalf of the third respondent wherein the stand taken is that the recovery amount was repaid back to the petitioner, that the pension and other benefits were recalculated and paid to the petitioner and that the petitioner cannot equate himself with the case of the said Mr.V.Balaji, who was working as an Electrician and was fitted in the pay scale of Rs.1100-1600 as per the recommendations of the One Man Commission. Ultimately, a request was made on behalf of the third respondent to dismiss this writ petition.

5. This Court heard the submissions of the learned counsel on either side and perused the materials available on record.

6. The limited issue that arises for consideration in this writ petition is as to whether the scale of pay that was fixed to the petitioner is in line with G.O.Ms.No.511 dated 01.8.1992.

7. When the petitioner filed the earlier writ petition, apart from questioning the recovery, the petitioner also sought for a direction to fix his pay in line with the case of the said Mr.V.Balaji. Since the earlier



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writ petition filed by the petitioner was dealt with along the other connected writ petitions and the focus was only on the recovery, no orders were passed on the claim made by the petitioner seeking for fixation of his pay in line with the case of the said Mr.V.Balaji. After the common order dated 23.12.2021 was passed in the batch of cases, the concerned Superintending Engineer of the third respondent - Corporation, through the proceedings dated 22.9.2022, ordered for repayment of the amount that was sought to be recovered and for fixation of pension and payment of other benefits. While doing so, the scale of pay of the petitioner was fixed at Rs.950-1550 by bringing him under Grade II whereas the petitioner was seeking for considering him under Grade I since he passed S.S.L.C. and has been holding the I.T.I. certificate. The petitioner wanted himself to be placed in the scale of pay of Rs.1100-1660.

8. The stand taken on behalf of the third respondent - Corporation in the counter is that the petitioner cannot equate himself with the case of the said Mr.V.Balaji and therefore, the petitioner is not entitled to the relief that was granted to the said Mr.V.Balaji pursuant to the order passed in W.P.No.40108 of 2006 dated 09.3.2012, which ultimately resulted in the issuance of G.O.Ms.No.326 dated 24.6.2013.



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9. In the considered view of this Court, the said stand taken on behalf of the third respondent - Corporation is not sustainable. The case of the petitioner must be considered individually in line with G.O.Ms.No.511 dated 01.8.1992. This Government Order was passed based on the recommendations of the One Man Commission, by which, the various trade posts were classified broadly into two groups. The first group deals with persons, who failed in the SSLC with I.T.I. certificate and the other group deals with persons, who have passed S.S.L.C. with I.T.I. certificate. In the former, they were brought under Grade II, for which, the scale of pay was fixed at Rs.950-1500 and Rs.825-1200 whereas in the latter, they were brought under Grade I and the scale of pay was fixed at Rs.1100-1660.

10. On the materials placed before this Court, it is seen that the petitioner passed S.S.L.C. and he also had I.T.I. certificate. On this ground, the petitioner is seeking for fixing his scale of pay at Rs.1100-1660 as per the Government Order.

11. In the earlier writ petition filed by the petitioner, the learned Single Judge did not deal with this issue since the focus was only on the recovery and the earlier writ petition filed by the petitioner was taken up along with the batch of other connected writ petitions. In



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view of the same, it is always open to the petitioner to question the fixation of pension and other benefits based on the scale of pay by considering the petitioner as falling under Grade II.

12. In the light of the above discussions, considering the relevant Government Order in G.O.Ms.No.511 dated 01.8.1992, this Court finds that the petitioner has to be brought under Grade I and that he cannot be denied the pay scale of Rs.1100-1660.

13. Accordingly, there shall be a direction to the third respondent to deal with the claim made by the petitioner, fix Rs.1100-1660 as the pay scale in line with G.O.Ms.No.511 dated 01.8.1992, revise the pension, rework the commuted value of pension and pay the arrears within a period of twelve weeks from the date of receipt of a copy of this order. The petitioner shall make a fresh representation in this regard to the third respondent along with all the relevant documents and a copy of this order within a week.

14. In the result, the writ petition is allowed in the above terms.
No costs.

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N.ANAND VENKATESH,J

RS

To

- 1.The Principal Secretary,
Government of Tamil Nadu,
Municipal Administration &
Water Supply Department,
Fort St.George, Chennai-9.
- 2.The Secretary, Finance
Department, Government of
Tamil Nadu, Fort St.George,
Chennai-9.
- 3.The Commissioner,
Greater Chennai Corporation,
Ripon Building, Chennai-3.

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