



W.P.No.3699 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM:

**THE HONOURABLE MS.JUSTICE P.T.ASHA**

**W.P.No.3699 of 2016 and**  
**W.M.P.No.3087 of 2016**

M.Adilakshmi

.. Petitioner

Vs.

1. The Principal Accountant General of Tamil Nadu (A&E)  
NO.361, Anna Salai,  
Chennai-600 018.

2. Government of Tamil Nadu, rep by  
Principal Secretary  
Higher Education Department,  
Fort St.George, Chennai-600 009.

3. The Commissioner of Technical Educational  
Office of the Directorate of Technical Education (DOTE)  
Guindy, Chennai-600 025.

4. The Principal  
Central Polytechnic College  
Taramani, Chennai 600 013

.. Respondents

**PRAYER:** Writ petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorari, praying to call for the records in No.P27/12714279/3/ P.P.O.No. R2714279/EDT dated 24.03.2015 on the file of



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the 1st respondent herein and quash the same and direct the respondents and more particularly the 1st respondent herein to determine and fix the pension of the petitioner taking into consideration the last drawn salary in the post of Telephone Operator as on 30.04.2011 sanctioning periodical increments from 09.02.2000 to 30.04.2011 including pay revision consequent to the recommendation of the VI Pay Commission and pay arrears of pension to the petitioner.

|                     |                                              |
|---------------------|----------------------------------------------|
| For Petitioner      | : M/s.Sadasharam                             |
| For Respondent 1    | : Ms.Hema Muralikrishnan<br>Standing Counsel |
| For Respondent 2 &3 | : Mr.D.Ravichander                           |
| For Respondent 4    | : Served-No appearance                       |

### **ORDER**

Alleging that the petitioner's pension has not been fixed as per the earlier order of this Court in W.P.No.17707 of 2011, the petitioner is before this Court.

2. The brief case of the petitioner is that she had been employed as a Health Worker in the 4<sup>th</sup> respondent Institute. She was later transferred and appointed as Sweeper in the 4<sup>th</sup> respondent institute by order dated 29.08.1988 pursuant to her



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representation dated 29.06.1988 in a scale of pay of Rs.450-10-570-15-720 which was the scale of pay applicable for the post of Sweeper. The petitioner submitted that she has joined in this post on 01.09.1988. Thereafter, by order dated 19.06.1990, she was appointed as an Assistant Typist by the 4<sup>th</sup> respondent. By order dated 15.04.1997, she was once again transferred and appointed as a Blue Printer by the 4<sup>th</sup> respondent under Rule 39-A(1) of the Tamil Nadu Sub-Ordinate Service Rules in a scale of pay of Rs.775-12-955-14-1025. This post was treated as temporary one and was subject to certain conditions imposed in the order of appointment dated 15.04.1997. Thereafter, by order dated 20.02.1998, the petitioner was regularized in the post of Blue Print Operator by the 4<sup>th</sup> respondent with effect from 16.04.1997 for a period of two years and by order dated 07.02.2000, the 3<sup>rd</sup> respondent passed an order appointing the petitioner to the post of Telephone Operator under the category recruitment by transfer in a scale of pay of Rs.3200-85-4900 under Rule 10-A(1) of the Tamil Nadu General Sub-Ordinate Service Rules. Once again, the order stated that the appointment was temporary. However, it is the contention of the petitioner that the appointment as Telephone Operator was on a substantive vacancy and was only an initiative on promotion to the post of Telephone Operator from the post of Blue Printer.



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3. In the meanwhile, by order dated 26.06.2000, the 3<sup>rd</sup> respondent had stated that appointment to the post of Telephone Operator would be regularized only if the petitioner passed the Tamil language test conducted by the TNPSC as the petitioner belongs to Telugu minority community(Scheduled Caste). The petitioner submitted that despite writing the Tamil language test for 14 times, she had failed to clear the test. She also submitted that she had earlier undergone training in Tamil language and further she was due to attain superannuation on 30.04.2011. However, on the date of retirement, the 4<sup>th</sup> respondent not only superannuated the petitioner but also passed an order reverting her to the post of Blue Print Operator. Both the orders were passed on the very same day without considering the petitioner's representation for exemption and regularisation. It is the contention of the petitioner that she had continuously worked as Telephone Operator from April 2000 till the date of retirement without any increment being paid to her in the scale of pay of Rs.3200-85-4900. This order was challenged by the petitioner in W.P.No.17707 of 2011 and this Court, by order dated 11.10.2012, was pleased to pass the following orders which is extracted hereunder:-



*“10. Since Rule 31 of the Tamil Nadu Pension Rules provides for fixing the pension by taking into account the pay drawn for a period of ten months, necessarily, the benefit of the said Rule should be given to the petitioner. Admittedly, the petitioner was given salary in the post of Telephone Operator till 30<sup>th</sup> April 2011. The case of the petitioner therefore, would come within the meaning of Rule 31 of the Tamil Nadu Pension Rules. The petitioner is, therefore, entitled for fixation of pension on the basis of pay last drawn by her for a period of ten months.*

*11. The Fourth respondent is directed to fix the pension taking into account the pay drawn by the petitioner for a period of ten months immediately prior to her retirement, not withstanding the impugned order of reversion”.*

4. However, it is the contention of the petitioner that the order dated 11.10.2012 has not been given effect to and on the contrary, the petitioner has been receiving a lesser pension equivalent to the pension payable to the Blue Print Operator. The petitioner would draw attention to her pay slip dated 26.11.2014 to highlight the above fact. The petitioner, therefore, sought to quash the impugned order dated 24.03.2015 passed by the 1<sup>st</sup> respondent.



5. The learned Standing Counsel for the 1<sup>st</sup> respondent would submit that the order passed in W.P.No.17707 of 2011 has been complied with. The paragraphs 2(f) and 5 of the counter affidavit filed by the 1<sup>st</sup> respondent are extracted hereunder:-

*“2(f).On the strength of the G.O., the fourth respondent forwarded necessary proposals dated 26.11.2014 for the admittance of pensionary benefits in favour of the petitioner based on the Pay Last Drawn of Rs.8230/-(Rs.6230 + Grade Pay Rs.2000) that she was drawing as Telephone Operator. The proposals received on 02.12.2014 by this respondent were processed and the pensionary benefits were authorised on 24.03.2015, as proposed.*

*5. It is thus submitted that the pay applicable to the post of Telephone Operator has been taken into account for fixing the pensionary benefits and the contention of the petitioner that the pay applicable to the post of Blue Print Operator (i.e., scale of pay of Rs.4800-10000 + Grade Pay of Rs.1650/-) was taken as the basis is factually incorrect”.*

6. A perusal of the pay slip which has been filed by the petitioner would



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also indicate the above figure. That apart, the 1<sup>st</sup> respondent has filed an annexure giving calculation of pay last drawn in the scale of pay of Telephone Operator and the same is extracted below:-

**Calculation of Pay Last Drawn and Pension**

|                                                                          |                                  |
|--------------------------------------------------------------------------|----------------------------------|
| (i) Pre-revised Scale of pay<br>(Telephone Operator)                     | : Rs.3200-85-4900                |
| (ii) Revised Scale of Pay w.e.f.01.01.2006                               | :Rs.5200-20200+Grade pay Rs.2000 |
| (iii) Pay in the pre-revised scale                                       | :Rs.3200 +149                    |
| (iv) Pay in the revised scale<br>(after multiplying by a factor of 1.86) | : Rs.(3200+149)x1.86=Rs.6230/-   |
| (v) Grade Pay (attached to the scale)                                    | : Rs.2000/-                      |
| (vi) Revised Pay from 01.01.2006<br>till 30.04.2011                      | : Rs.8230/-(6230 +2000)          |

Pension (50 % of Pay Last Drawn) x 53/60= Rs.8230/2 x 53/60= Rs.3635/-

Therefore, the petitioner is drawing pension in the scale of pay of Telephone Operator.

7. In the light of the above, this Court is of the considered view that the grievance expressed by the petitioner before this Court appears to be totally misconceived. Accordingly, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

**11.06.2024**



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Index : Yes / No  
Speaking/Non-speaking Order  
nr  
To

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