



Writ Petition No.41090 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	15/12/2023
PRONOUNCED ON	26 /4/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.41090 of 2016

P.Kirubakaran ... Petitioner

Vs

1. The State of Tamil Nadu
rep. By its Secretary
Home Department (Police 18)
Fort St George
Chennai 600 009.

2. The Director
Forensic Science Department
30 A Kamarajar Salai
Mylapore
Chennai 600 004.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus to call for the records relating to the order issued by the second respondent in Letter No.Na.Ka.A.5/32449/2014 dated 5/4/2014 and quash the same and



Writ Petition No.41090 of 2016

consequently, direct the respondents to sanction the selection grade pay as per G.O.Ms.No.237 Finance (Pay Cell) Department, dated 22/7/2013 and to fix the selection grade pay with increment 3% + 3% (Pay + Grade pay) and to fix pay accordingly in the post of Deputy Director and other benefits for all purpose including pensions and others pensionary benefits.

For petitioner	...	Mr.P.Dayalan
For respondents	...	Mr.R.Neelakandan Additional Advocate General Assisted by Mr.R.U.Dinesh Raj Kumar Additional Government Pleader

O R D E R

This writ petition is filed to quash the proceeding dated 5/4/2014 to grant selection grade to the petitioner, as per G.O.Ms.No.237 Finance (Pay Cell) Department, dated 22/7/2013.

2. Facts of the case in brief are as under:-



Writ Petition No.41090 of 2016

The petitioner was appointed in the second respondent Forensic Science Department under the control of first respondent/Home Department.

He was appointed as Scientific Officer as per G.O.Ms.No.939 (Police 18) Department dated 29/8/2000. Thereafter, he was appointed as Scientific Officer on 4/9/2000 and eligible for selection grade pay on the date of completion of ten years in the same post. However, Selection Grade was not granted to the petitioner even after completion of ten years of service in the cadre of Scientific Officer. The second respondent has given reply under the Right to Information Act, 2005 on 11/11/2013 that the petitioner has completed ten years of service in the cadre of Scientific Officer.

3. As the request of the petitioner for grant of selection Grade was not considered by the respondents, the petitioner has preferred W.P.No.2689 of 2014. The said petition was disposed of with a direction to the petitioner to file fresh representation to the respondents, seeking sanction of Selection Grade in the cadre of Scientific, as per G.O.Ms.No.237 Finance (Pay Cell) Department dated 22/7/2013 and on filing of such representation, respondents were directed to consider the said representation and pass appropriate orders within a period of six weeks.



WEB COPY

4. The petitioner has accordingly submitted his application to the second respondent. However, the second respondent has issued proceedings in Na.Ka.No.A5/32449/2014, dated 5/4/2014 stating that the selection grade pay will be fixed only after re-drawal of the petitioner and request of the petitioner for selection grade pay was rejected for the time being. Hence, the petitioner has filed contempt petition aggrieved by the said orders. However, the said Contempt Petition was closed holding that no contempt was made out. Aggrieved by the rejection of the selection grade to the petitioner, present writ petition is filed.

5. The Director, Forensic Sciences Department, Mylapore, Chennai has filed counter affidavit, wherein it is stated that as per the proposal sent to the Government for redrawal of panels from 1996 – 1997 to 2007 – 2008, based on the revised seniority list issued by the Directorate in Proceedings No.A1/42200/2006 dated 25/10/2006, name of the petitioner was proposed to be included for the post of Scientific Officer for the panel year 2004 – 2005 and for which the crucial date is 15/10/2003. However, the petitioner was not having 10 years of regular service in the post of Scientific Officer as



he was promoted to the post of Assistant Director (now redesignated as Deputy Director) on 15/5/2003.

6. It is further stated that regular service of the petitioner in the post of Scientific Officer would be about 8 years and 7 months and not more than 10 years as claimed by the petitioner. The said fact was submitted to the Court, based on the revised seniority list of Scientific Assistant Grade – I issued by the Directorate in Proceedings No.A1/42200/2006, OO No.194/2006 dated 25/10/2006 and the same has been upheld by the Division Bench of High Court of Madras in Writ Petition No.12751/2004 dated 28/1/2009.

7. Heard Mr.P.Dayalan, learned counsel for the petitioner and Mr.R.Neelakandan, learned Additional Advocate General for the respondents.

8. The contention of the writ petitioner is that he was granted selection grade even after completion of ten years of service in the cadre of Scientific Officer in the second respondent Department. The petitioner was



admittedly promoted as Scientific Officer on 29/8/2000 thereby, in the normal course, he should have been given selection grade on completion of ten years of service i.e., on 29/8/2010, the petitioner should have given the selection grade. According to G.O.Ms.No.237 dated 22/7/2013, the petitioner is eligible to get the selection grade with increment on 3% + 3% with effect from 4/9/2010. Reply received by the petitioner under RTI on 11/11/2013 also discloses that the petitioner has completed ten years of service in the cadre of Scientific Officer. However, he was not given the selection grade for which he has filed W.P.No.2689 of 2014, wherein, a direction was given by this Court to the respondents to consider the request of the petitioner but even then, request of the petitioner was rejected by way of impugned order.

9. On going through the counter affidavit, additional counter affidavit and other materials placed before this Court, it is clear that the petitioner was promoted as Scientific Officer on 29/8/2000 and has got the next promotion as Deputy Director on 15/5/2013. That means, he has worked closed to 13 years in the cadre of Scientific Officer, however, he was not granted selection grade in the cadre of Scientific Officer.



WEB COPY

10. According to the respondents, subsequent to the petitioner's promotion as Scientific Officer in the year 1999 – 2000 as per G.O.Ms.No.939 dated 29/8/2000 some of the petitioner's colleagues have raised a dispute and filed O.A.No.443 of 1993 on the file of the Tamil Nadu Administrative Tribunal. The said Tribunal, by way of its judgment, dated 9/12/2003 has allowed the said O.A and set aside G.O.Ms.No.930 dated 28/8/2000 by which the petitioner was promoted as Scientific Officer. The aggrieved persons have filed W.P.No.12751 of 2004 and the said writ petition was dismissed confirming the orders made in O.A.No.443 of 1999 dated 9/12/2003. Aggrieved by the said dismissal of the writ petition, Review Petition was also filed in R.A.Nos.41 to 44 of 2009 and the said Review Petition was also dismissed on 23/3/2010. The petitioner is a party to both the writ petition and Review Applications.

11. On account of setting aside of G.O.Ms.No.930 dated 28/8/2000 in which the petitioner was promoted as Scientific Officer, the seniority list of the Scientific Officer and promotion of the petitioner as Scientific Officer was not effected, thereby, revised seniority list was not drawn.



WEB COPY

12. At this juncture, only during the process of redrawing of seniority list, impugned orders have been passed stating that selection grade pay of the petitioner will be fixed only after redressal of the petitioner and until then, request of the petitioner was rejected. The respondent Department has prepared the fresh panel of the seniority list.

13. The petitioner has therefore, lost erstwhile seniority and thereby, fresh seniority list was prepared for the period 1996 – 1997 to 2007 – 2008 and basing on the revised seniority list, G.O., was issued, thereby, the petitioner was again included in the fresh panel 2005. The crucial date for which as 28/3/2005, that means even though the petitioner was originally promoted as Section Officer with effect from 29/8/2000 on account of setting aside those promotion, his seniority list was revision after revision of the seniority list his promotion as Section Officer is deemed to have given with effect from 15/10/2003 and not from 29/8/2000. Therefore, the period from 29/8/2000 until 14/10/2003 though he worked as Scientific Officer, the said period could not be reckoned. Therefore, the seniority of the petitioner as Scientific Officer will have to be calculated with effect from 15/5/2003. If



Writ Petition No.41090 of 2016

the petitioner completes 10 years of service with effect from 15/6/2003 in the cadre of Scientific Officer certainly as per G.O.Ms.No.237 dated 22/7/2013 he is entitled for selection grade. However, even if he has completed ten years as Scientific Officer with effect from 15/10/2003 he has got his next promotion as Deputy Director on 15/5/2013 by which time, he has completed eight years and seven months. Therefore, he is not entitled for the post of Selection Grade. In view of the above, the petitioner has not made out a case and accordingly, the same is liable to be dismissed.

14. In the result, this writ petition is dismissed. No costs.

26/4/2024

mvs.

Index: Yes/No

Neutral Citation: Yes/No



Writ Petition No.41090 of 2016

To

WEB COPY

1. The Secretary
State of Tamil Nadu
Home Department (Police 18)
Fort St George
Chennai 600 009.
2. The Director
Forensic Science Department
30 A Kamarajar Salai
Mylapore
Chennai 600 004.



WEB COPY



Writ Petition No.41090 of 2016

D.NAGARJUN,J

mvs.

Pre-delivery order made in
W.P.No.41090 of 2016

26/4/2024