IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 11.07.2024	Pronounced on : 27.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.15269 and 16906 of 2020
and
W.M.P.Nos.19100, 20980 and 20982 of 2020

W.P.No.15269 of 2020
1.K.Dhayalan
2.M.Gnanasekaran
3.J.Ganesan
4.R.Thiruvenkadam
5.S.Gurusamy
6.S.CHinnarajulu
7.V.Rajendran
8.T.Thompson
9.K.Ezhilarasu
10. S.Ulaganathan
11. C.Jayaraman
12. P.Paramasivam Palani
13. S.Ramamurthy
14. G.Navaneethakrishnan
15. G.Senguttuvan
16. R.Radhakrishnan
17. M.Pazhanivel ... Petitioners

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2. The State of Tamil Nadu,
   Represented by its Additional Chief Secretary to Government,
   Finance Department, Secretariat,
   Fort St.George, 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 for the records relating to the impugned Government Order issued by the 1st Respondent in GO. Ms. No. 110, personnel and Administrative Reforms (U Special) Department dated 29.09.2020 and to quash the same and consequently directing the Respondents to restore the original paragraph 11 of the G.O.Ms.No. 31 personnel and Administrative Reforms (U Special) Department dated 01.03.2017 with further direction to issue the list of beneficiaries in respect of Senior Assistant promotee Assistant Section officer in Finance Unit and ONE Unit towards consequential rectification of pay anomaly andto provide pay and post parity for the petitioners on par with their junior Tmt. S. Saraswathy within a time frame to be fixed by this Honble Court.

For Petitioner : Mr.G.Sankaran, Senior Counsel
for Mr.S.Nedunchezhiyan

For Respondents : Mr.J.Ravindran,
Additional Advocate General
assisted by Mr.Azhizhullakhan,
Government Advocate

W.P.No.1 of 2020

1.V.S.Vimala
2.S.Ramanathan ... Petitioners

Vs.

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   Represented by its Secretary to Government,
   Personnel and Administrative Reforms Department,
   Secretariat, Fort St. George,

Chennai – 600 009.

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For Petitioner : Mr.V.Govardhanan

For Respondents : Mr.J.Ravindran,
Additional Advocate General
assisted by Mr.Azhizhullakhan,
Government Advocate

COMMON ORDER

Heard Mr.G.Sankaran, learned Senior Counsel for Mr.S.Nedunchezhiyan appearing for the petitioners in W.P.No.15269 of 2020, Mr.V.Govardhanan, learned counsel for the petitioners in W.P.No.16906 of 2020 and Mr.J.Ravindran, learned Additional Advocate General assisted by Mr.Azhizhullakhan, learned Government Advocate appearing for the respondents.

2. All the petitioners in W.P.No.15269 of 2020 were appointed in the Tamil Nadu Secretariat Services in various Departments coming under ONE Unit, as 'Assistant' through TNPSC and then promoted to the post of Assistant Section Officer, Section Officer and so on and then retired from service on attaining the age of superannuation. Whereas the petitioners in W.P.No.16906 of 2020 were appointed initially as 'Personal Clerks' in the ONE Unit of Tamil Nadu Secretariat Services and thereafter, they were also promoted to the post of Assistant Section Officer, Section Officer etc.,

3. For better appreciation, it is necessary to take note of certain background facts that lead to the present litigation. The background facts were succinctly noted by a learned Single Judge (Hon'ble Mr.Justice R.Subbiah) of this Court in an order dated 08.04.2014 passed in W.P.No.25556 of 2013. The said writ petition was filed by one S.Saraswathi, who was initially appointed as 'Typist' in the Tamil Nadu Secretariat Services through TNPSC and then promoted to the post of Assistant Section Officer, Section Officer, Under Secretary, Joint Secretary and then retired from service on attaining the age of

superannuation.

4. When the benefits that were extended to the Assistant Promotee Assistant Section Officers and Section Officers in connection with the pay/ post parity, on comparing them with their counter parts in the Finance Unit of the Tamil Nadu Secretariat Services, were not extended to the said S.Saraswathi, she approached this Court by filing W.P.No.25556 of 2013. In the said Writ Petition, the learned Single Judge, while disposing the said writ petition, taken note of the entire background facts. In view of the same, this Court is of the considered view that it will be appropriate to extract the relevant portion of the said order, dated 08.04.2014 for the limited purpose of clarity of facts for better adjudication of the case on hand. The same reads as under:-

> *"(a) The petitioner was appointed as Typist in ONE Unit in Tamil Nadu Secretariat Service through Tamil Nadu Public Service Commission on 25.03.1978. She was promoted as Assistant Section Officer on 15.12.1994 and further promoted as Section Officer on 31.12.2007 and thereafter, she was promoted as Under Secretary on 09.01.2013 and is working in Highways and Minor Ports Department*

till date. According to the petitioner, originally all the departments in the Secretariat including Law and Finance Departments were under ONE Unit and the appointments to all the entry level posts viz., Junior Assistant (now Assistant), Assistant (now Assistant Section Officer), Typist / Personal Clerks, were made only from the common list of candidates selected by the TNPSC, as per G.O.Ms.No.70, Public (Service) Department, dated 17.06.1961. But, subsequently, as per G.O.Ms.No.1290, dated 05.06.1970, the Finance and Law departments were excluded from ONE Unit system, without amending Special Rules for Tamil Nadu Secretariat Service and therefore, all the entry level posts in the cadre of Junior Assistant, Assistant, Section Officer, Typist / Personal Clerks were continued to be filled up from the common list of candidates selected and allotted by TNPSC to the Secretariat till 1995.

(b)While so, the State Government issued orders in G.O.Ms.No.30, P & AR Department, dated 28.01.1994, amending the Special Rules for Tamil Nadu Secretariat Services to notify Finance and Law Departments as separate units from the level of Section Officer and above. However, till the

amendment of service Rules, there was a common selection to the entry level posts, both in ONE Unit and finance unit. But no special criteria was followed while allotting the selected candidates to the Finance Department from the common list and all the allotments were made as applicable to the ONE Unit staff. However, insofar as promotion and other conditions of services are concerned, the finance department is treated as separate unit, due to which the Junior Assistant / Typist / Personal Clerk allotted to Finance Department were able to get promotion to the higher posts viz., Assistant Section Officer and Section officer in shorter time, when compared to their counterpart in ONE Unit, since the Finance Unit is with lesser number of posts treated as single unit. Further, the Assistant / Typist / Personal Clerk allotted to Finance Department were able to obtain promotion in advance overlooking their seniors working in other departments coming under ONE Unit. Hence, O.A.No.166/1990 has been filed before the Tamil Nadu Administrative Tribunal and the same was disposed of on 16.04.1993, holding that the seniors working in ONE Unit are entitled to be promoted as Assistant Section Officer with effect from the date of their juniors' promotion in finance unit.

(c) Pursuant to the order passed by the Tribunal, the Government issued orders in G.O.Ms.No.338, P & AR Department, dated 08.11.1995, by which the applicants in O.A.No.166/1990 were given promotion on par with their juniors in finance unit. When the representations were made by the similarly placed persons, the Government issued G.O.Ms.No.126, P & AR Department, dated 29.05.1998, granting promotion and stepping up of pay for the seniors in ONE Unit recruited on or before 28.01.1994 on par with their juniors in Finance Department on various conditions. In pursuance of the implementation of G.O.Ms.No.126, dated 29.05.1998, similar post / pay anomaly arose within Assistant Section Officers in ONE Unit and the same was sought to be rectified as per the orders passed in G.O.Ms.No.171, P & AR Department, dated 28.09.2006, thereby, the Government directed that the Assistant Section Officer promoted from the post of Assistant (formerly junior assistant) who were seniors to the Assistant Section Officer promoted from the post of Typist / Personal Clerk in the combined seniority list of Assistant Section Officers to be given the pay parity /

upgradation on par with their juniors with effect from 29.05.1998.

(d) After some time, the juniors working in Finance Department appointed prior to 28.01.1994 were again pushed up to higher posts with higher scale of pay overtaking their seniors in ONE Unit. Therefore, the Government again issued G.O.Ms.No.154 P & AR Department, dated 30.10.2009, 'another one time affair' on the analogy of earlier orders passed in G.O.Ms.No.126, dated 29.05.1998. However, the benefit of upgradation of posts or stepping up of pay was confined only to the promotees from the post of Assistant in ONE Unit. In the said G.O., it is stated that the issue of rectification of pay anomaly in respect of typists / personal clerks promotees shall be taken up separately.

(e) While so, after three years of G.O.Ms.No.154, dated 30.10.2009, the Government issued G.O.Ms.No.112, P & AR Department, dated 13.07.2012, granting the upgradation / stepping up of pay to the persons, who have been recruited and appointed as Typist/ Personal Clerk to the Tamil NadU Secretariat Service before 28.01.1994 and

promoted as Assistant Section Officer from the combined seniority list (Assistant Section Officer) Panel and who are in service on the date of issue of the order, on par with their juniors in ONE Unit itself. Accordingly, the benefit of post/pay parity on par with the juniors of the finance unit is not extended for the persons appointed as Typist / Personal Clerk in the Tamil Nadu Secretariat Service before 28.01.1994 and promoted as Assistant Section Officer from the combined seniority list. Further the said benefit was given effect to only from the date of issuance of order viz., 13.07.2012."

5. From the above, it is evident that, initially various posts existing in all the Departments, including Finance and Law Departments, were treated as ONE Unit and thereafter, the Finance Unit was separated and treated as an independent unit by virtue of an amendment made to the Special Rules under G.O (Ms) No.30, P&AR Department, dated 28.01.1994. It is thereafter by virtue of orders passed by the then Tamil Nadu Administrative Tribunal in O.A.No.166 of 1990, the Assistants who are appointed in ONE Unit of the Tamil Nadu Secretariat Services were extended the benefit of pay/ post parity

on par with their juniors working in the Finance Unit and thereafter, all the other Typists, Assistants, Personal Clerks etc., were also extended the said benefit of pay/ post parity on par with their juniors working in 'Finance Unit' as a 'one time affair', through G.O (Ms) No.126 dated 29.05.1998.

6. However, thereafter the Government issued yet another Government Order in G.O (Ms) No.171, Personnel and Administrative Reforms (U.Spl.) Department, dated 28.09.2006, extending the benefit of pay/ parity and upgradation on par with their juniors in 'ONE Unit' i.e., 'Assistant Section Officers promoted from the post of Typists' in favour of the 'Assistant Section Officers promoted from the post of Assistants'. It is thereafter, the Government issued yet another Government Order vide G.O (Ms) No.154, Personnel and Administrative Reforms (U-Spl) Department, dated 30.10.2009, extending the benefit of pay/ post parity in favour of the 'Assistant Section Officers promoted from the post of Assistants' in ONE Unit and appointed on or before 28.01.1994 into the Tamil Nadu Secretariat Services and who were in service as on 30.10.2009, by duly upgrading/ stepping up on par with their juniors in Finance Unit as another 'one time affair', subject to terms and conditions mentioned in G.O (Ms) No.126, Personnel and Administrative Reforms (U-Spl)

Department, dated 29.05.1998.

7. While issuing the said G.O (Ms) No.154, dated 30.10.2009, the Government, in Paragraph No.5 of the said order observed that, the issue of rectification of pay anomaly in respect of Typist/ Personal Clerk promotees to the post of Assistant Section Officer shall be taken up separately. Thus, the benefit of pay/ post parity was extended only to the Assistant promotee Assistant Section Officers through G.O (Ms) No.154, dated 30.10.2009. It is thereafter, the Government issued G.O (Ms) No.112, Personnel and Administrative Reforms (U-Special) Department, dated 30.07.2012, extending the benefit of pay/ post parity in favour of the Assistant Section Officers promoted from the post of Typist/ Personal Clerk, however, on par with their juniors working in ONE Unit. Whereas the benefit of pay/ post parity was extended in favour of the Assistant Section Officers promoted from the post of Assistants on par with their juniors working in Finance Unit. Under those circumstances, the said G.O (Ms) No.112, dated 30.07.2012 was challenged by the above said S.Saraswathi by filing W.P.No.25556 of 2013 before this Court.

8. The learned Single Judge, after having considered the matter in

elaborate, came to the conclusion that the action of the Government in extending the benefit of pay/ post parity to the Assistant Section Officers promoted from the post of Typist on par with their juniors in 'ONE Unit' is arbitrary on the ground that the benefit that was extended to the Assistant Section Officers promoted from the post of Assistant were extended the benefit of post/ pay parity on par with their juniors in the Finance Unit is not extended to Typist promotee Assistant Section Officers. The conclusion arrived at by this Court in the above said order reads as under:-

> *" 20.As far as the present case is concerned, though the promotion was effected based on the combined seniority list of ASO panel, there is a serious discrimination among the single homogeneous class by confining pay / post parity in comparison with juniors in finance unit only to ASO promotees from the post of Assistant and not extending the same to the ASO promotees from the post of Typist / Personal Clerk has not been justified, except saying that it is the administrative decision of the Government and the Court cannot interfere with the same. I do not find any rational relation to the object sought to be achieved by discriminating ASOs from the post of Typist / Personal Clerk alone. Such course adopted by the*

Government is unreasonable, unjust and prejudicial to a section of employees. Therefore, this Court is inclined to interfere with the same. More over, it is not in dispute that the seniority is a civil right which has an important and vital role to play in one's service career and seniority once settled is decisive in the upward march, then that would give certainty, assurance and boosts the morale to do quality work. It instills confidence, spreads harmony and commands respect among colleagues which is a paramount factor for good and sound administration. Otherwise, it may generate bitterness, resentment, hostility among the Government servants and the enthusiasm to do quality work might be lost. Here, in this case, prejudicial to a section of employees G.O.Ms.No.112, dated 13.07.2012 has been issued. Therefore, I am of the opinion that the petitioner is entitled for upgradation of pay / stepping up of pay on par with her junior in finance unit. Therefore, the paragraph No.6 of G.O.Ms.No.112, dated 30.07.2012, is liable to be quashed and the petitioner should be given the benefit as granted to the promotees from the post of Assistant under G.O.Ms.No.154, dated 30.10.2009."

9. From the above, it is evident that the assurance that was given by the Government in G.O (Ms) No.154, dated 30.10.2009 to extend the benefit of pay/ post parity granted in favour of the Assistant promotee Assistant Section Officers to the Assistant Section Officers promoted from the post of Typist was directed to be extended on similar lines to the Typist promotee Assistant Section Officers. It is pursuant to the above said order, the Government issued G.O (Ms) No.31, P&AR Department, dated 01.03.2017, extending the said benefit in favour of Typist promotee Assistant Section Officers. While issuing the said Government Order, in Paragraph No.11 of the said order, it was mentioned that the consequential rectification of pay anomaly in respect of the Senior Assistant promotee Assistant Section Officers in ONE Unit and finance unit will be issued separately. The relevant Paragraph No.11 of the said Government Order reads as under:-

> *"11. The appendix containing the list of beneficiaries in respect of Typist/ Peronal Clerk promotee Assistant Section Officers including the petitioner Tmt.S.Saraswathy and* ***consequential rectification of pay anamoly in respect of the Senior Assistant promotee Assistant Section Officers in ONE Unit and***

Finance will be issued separately."

10. It is basing upon the said sentence, the Assistant promotee Assistant Section Officers working in ONE Unit started making a claim for issuance of consequential orders rectifying the pay anomaly. The said sentence providing for consequential rectification in Paragraph No.11 of G.O (Ms) No.31, P&AR Department, dated 01.03.2017 was subsequently deleted by the Government by issuing G.O (Ms) No.110, P&AR Department, dated 29.09.2020. It is aggrieved by the said Government Order, the petitioners approached this Court by filing the present Writ Petition to quash the same and also to rectify the pay anomaly.

11. The contention of Sri.G.Shankaran, learned Senior Counsel appearing for the petitioners is that the reasoning assigned in the impugned Government Order for deleting a portion of Paragraph No.11 of G.O (Ms) No.31, P&AR Department, dated 01.03.2017 stating that the Assistant promotee Assistant Section Officers cannot be compared with the Typist promotee Assistant Section Officers, as they were promoted from different categories, is totally unsustainable as the Government itself treated them as equals while issuing G.O (Ms) No.171, dated 28.09.2006 viz Paragraph No.7 of the said

Government Order and therefore, the only reason assigned in the impugned Government Order for deleting the provision providing for consequential rectification in favour of the Assistant promotee Assistant Section Officers is arbitrary and illegal. He also further contended that the right that is accrued in favour of the petitioners and other similarly situated persons under G.O (Ms) No.31, P&AR Department, dated 01.03.2017 cannot be taken away by issuing the impugned Government Order without assigning sufficient reasons and without affording any opportunity to the petitioners.

12. On the other hand, Mr.J.Ravindran, learned Additional Advocate General contended that the benefit of post/ pay parity was intended to be extended as a 'one time affair' and the same was extended as 'another one time affair' and the same is only a concession extended by the State and as such, the petitioner cannot claim the same as a matter of right time and again. He also further contended that the benefit that was extended to the Assistant Promotee Assistant Section Officers is now being extended to the Typist Promotee Assistant Section Officers through G.O (Ms) No.31, dated 01.03.2017 and as such, the same cannot be claimed by the Assistant Promotee Assistant Section Officers once again. He also further contended that the issue of extending the

benefit of post/ pay parity has to be put to rest at one stage or other, otherwise it will go on extending endlessly and also placed reliance on a decision of a learned Single Judge of this Court in W.P.No.26009 of 2011 dated 08.01.2014.

13. As already noted above, the Assistant promotee Assistant Section Officers were extended the benefit of pay/ post parity by issuing G.O (Ms) No.126, dated 29.05.1998 and G.O (Ms) No.171, dated 28.09.2006 as well as G.O (Ms) No.154, dated 30.10.2009. While issuing the said G.O (Ms) No.171, dated 28.09.2006, it was stated that the similar rectification of pay anomaly in the case of Assistant Section Officers promoted from the post of Typist and Personal Clerks would be considered separately. It is pursuant to the said assurance, G.O (Ms) No.112, dated 13.07.2012 came to be issued, however, treating the Assistant Section Officers promoted from the post of Typist/ Personal Clerks differently than that of the Assistant Section Officers promoted from the post of Assistants. The said action was challenged in W.P.No.25556 of 2013 and by virtue of the order passed in the said writ petition, G.O (Ms) No.31, dated 01.03.2017 came to be issued. Thus, the said G.O (Ms) No.31, dated 01.03.2017 was issued to extend the similar benefit that was already extended in favour of the Assistant promotee Assistant Section Officers to the

Typists/ Personal Clerks promotee Assistant Section Officers. Therefore, the last sentence of Paragraph No.11 of G.O (Ms) No.31, dated 01.03.2017 stating that the consequential rectification of anomaly in respect of Assistant promotee Assistant Section Officers would be issued separately is nothing but providing for a vicious circle. If that is allowed, then the pay of the Assistant promotee Assistant Section Officers would be rectified once again and then there will be a scope/ demand for rectification of the pay of Typist promotee Assistant Section Officers once again and thus, the vicious circle would continue to operate ever ending.

14. As already noted above, the benefits that were extended under G.O (Ms) No.126, dated 29.05.1998 and G.O (Ms) No.154, dated 30.10.2009 are as 'one time affair' and 'another one time affair', and as such, the same cannot be expected to be repeated again and again. As rightly contended by Sri.J.Ravindran, learned Additional Advocate General, it is only the benefit that was already extended in favour of the Assistant promotee Assistant Section Officers is sought to be extended by virtue of orders passed by this Court in W.P.No.25556 of 2013 and accordingly, G.O (Ms) No.31, dated 01.03.2017 came to be issued and the last sentence in Paragraph No.11 of the said

Government Order is unnecessary.

15. This Court is also in agreement with the further contention of Sri.J.Ravindran, learned Additional Advocate General stating that, in view of the fact that the benefit that was already extended in favour of Assistant promotee Assistant Section Officers was only extended in favour of Typist/ Personal Clerk promotee Assistant Section Officers under G.O (Ms) No.31, dated 01.03.2017, the question of comparing the Assistant promotee Assistant Section Officers once again with the Typist/ Personal Clerk promotee Assistant Section Officers does not arise and there cannot be any comparison in such a manner.

16. This Court has carefully considered the decision relied upon by Mr.G.Shankaran, learned Senior Counsel in the case of ***"Air India -vs- Nergesh Meerza and others"*** reported in **(1981) 4 SCC 335**, where the Hon'ble Apex Court held, that Article 14 of the Constitution of India forbids hostile discrimination but not reasonable clarification and where the class or categories of services are essentially different in purport and spirit, Article 14 cannot be attracted.

17. In the case of ***"K.T.Veerappa and others -vs- State of Karnataka and others"*** reported in **(2006) 9 SCC 406,** the Hon'ble Apex Court was dealing with a situation, whether the benefit of an order passed by this Court at the instance of some of the employees in connection with the revision of pay scales can be extended to all other similarly situated persons or not. Hence, the said decision has no application to the facts of the case on hand.

18. The case of ***"Haryana State Minor Irrigation Tubewells Corporation and others -vs- G.S.Uppal and others"*** reported in **(2008) 7 SCC 375** was a case where the financial difficulties of the employer and the financial burden on account of revision of pay scales has come up for consideration. No doubt, in the instant case also, the learned Additional Advocate General has taken a plea that in case if the claim of the petitioners herein is allowed, the same would case a serious financial burden on the Ex-Chequer, but this Court is not convinced with such submission, and such contention is not accepted.

19. In the case of ***"State of Karnatka -vs- Jitendra Kumar Srivastava"*** reported in **(2013) 12 SCC 210,** the issue for consideration was whether any person can be deprived of pension, gratuity etc., without following a due

process or not. Hence, the said decision has no relevancy to the facts of the case on hand.

20. Then yet another decision relied upon by learned counsel for the petitioners in the case of ***“Punjab State Cooperative Agricultural Development Bank Limited -vs- Registrar, Co-operative Societies and others”*** reported in **(2022) 4 SCC 363** is concerned, the same is a case where the question of non-availability of finances and withdrawing benefits that were already extended with retrospective effect. In the light of the above observations, this Court is of the considered view that the said decision also has no application to the facts of the case on hand.

21. Yet another decision relied upon by learned counsel for the petitioner in the case of ***“State of Tamil Nadu -vs- Seshachalam”*** reported in **(2007) 10 SCC 137** is concerned, that is a case directly arising out of the issue on hand, which went before the Hon'ble Apex Court at the instance of the persons, who are similarly situated like the petitioners herein, but retired from service, without making any claim for pay/ post parity with their counter parts in finance unit, but made a claim for extending such benefits after the issuance of G.O (Ms) No.126 dated 29.05.1998. The said claim was negatived by the then

Tamil Nadu Administrative Tribunal, but was allowed by this Court. However, on appeal by the State, the said claim of the persons who ceased to be in service by the date of issuance of G.O (Ms) No.126 was negatived by the Hon'ble Apex Court. Hence, the said decision is of no assistance to advance the case of the petitioners, but it is in other way demolishing the case of the petitioners, as all the petitioners herein were already retired from service.

22. It is also necessary to notice that a learned Single Judge of this Court in W.P.No.26009 of 2011 by an order dated 08.01.2014, while considering the validity of G.O (Ms) No.154 dated 30.10.2009, insofar as restricting the benefit of the said Government Order only to the employees who are in service as on the date of issuance of the said order has been pleased to uphold the said Government Order and further observed that the claims of the employees similar to one on hand have to be put at rest at one stage or other and also considered the prolonged claims and reliefs that were granted to the petitioners and other similarly situated persons and observed as under at Paragraph No.27 as under:-

> *"27. It is now well settled that fixing cut off dates is within the domain of the Executive and that the court should normally refrain from interfering*

with the fixation of cut off date. Without multiplying the authorities, an useful reference can be made to the judgment of K.Chandru J., in R. Vijayakumar Vs. Government of India (CDJ 2013 MHC 1140), where the learned Judge traced the development of law from the decision of the Supreme court in Excel Wear Vs. Union of India (1978 (4) SCC 224), upto the decision in Transport and Dock workers Union Vs. Mumbai port Trust (2011 (2) SCC 575). As pointed out by the learned judge, the court is obliged to exercise restraint in such matters. As a matter of fact, this litigation under the ONE Unit System actually started 23 years ago in 1990. It has become a continuous process with one section of employees or the other getting affected by the implementation of the benefits of rectification of pay anomaly in favour of one set of employees. This cannot continue for every and at one stage, the chain in the link has to be severed."

23. The order passed by a learned Single Judge in W.P.No.26009 of 2011 referred to above was confirmed by learned Division Bench of this Court in W.A.No.1020 of 2014 dated 19.08.2014 and the same was also confirmed in SLP (C) No.32262 of 2014 by an order dated 17.11.2017. Considering the

facts of the case on hand also, initially the benefit of pay/ post parity was claimed and was granted in favour of the Assistant Promotee Assistant Section Officers and while issuing the said order, it was mentioned that the similar benefit to the Typist promotee Assistant Section Officers would be considered separately and while issuing such separate orders, in respect of Typist promotee Assistant Section Officers, once again a clause was inserted saying that consequential rectification orders in respect of the Assistant promotee Assistant Section Officers would be issued separately. If this rotation is to be allowed, there would be no end for the same. One after the other, Government will be forced to step-up/ upgrade the pay post of one cadre after the other.

24. At this stage, it necessary to make a reference to the submissions made by Mr.J.Ravindran, learned Additional Advocate Government on the ground that the entire benefit of pay/ post parity or upgradation of pay/ post parity is a matter of concession extended by the State, without there being any statutory basis for the same.

25. As already noted above, the said benefit was initially sought to be extended by issuing G.O (Ms) No.126, dated 29.05.1998 as a 'one time affair'

and then again the said benefit was extended under G.O (Ms) No.154 dated 30.10.2009 as 'another one time affair'. The stand of the State to extend such benefit as 'one time affair' or 'another one time affair' was accepted by all the employees governed by the Tamil Nadu Secretariat Service Rules. Once it is concluded that the benefit of pay/ post parity as is being extended and claimed by the petitioners herein, as a concession but not as a matter of right, the petitioners cannot compel the State to keep on extending such benefit time and again even after the petitioners retired from service.

26. Before parting with the case, it is necessary to observe that all the petitioners herein have retired from service much prior to issuance of G.O (Ms) No.31, dated 01.03.2017, which was issued pursuant to an order passed by this Court. But, for the observations made in Paragraph No.11 of G.O (Ms) No.31, dated 01.03.2017, there is no other basis for the petitioners to claim parity on par with the beneficiaries under G.O (Ms) No.31, dated 01.03.2017.

27. As already noted above, the benefit of the said G.O (Ms) No.31 dated 01.03.2017 was issued pursuant to an order passed by this Court in W.P.No.25556 of 2013 dated 08.04.2014 at the instance of one

Ms.S.Saraswathi, who was initially appointed as Typist and then promoted to the higher post in the Tamil Nadu Secretariat Services. Therefore, as a matter of fact, there was no necessity for the State to make any observation about the issuance of consequential rectification orders in respect of the Assistant Promotee Assistant Section Officers. But, for the reasons best known, such an observation was made in Paragraph No.11 of the said Government Order. From the fact that such an observation was made without there being any necessity or context, this Court is made to feel that the same is a mischief that is being played by some of the employees, who are working in the Secretariat while issuing Government Orders from time to time, thereby making recurrent claims for upgradation of pay/ post parity from time to time. Hence, for this reason also, the claim of the petitioners in these writ petitions are liable to be rejected.

28. Insofar as the petitioners in W.P.No.16906 of 2020 is concerned, they were initially appointed as Personal Clerks. Paragraph No.11 of G.O (Ms) No.31 dated 01.03.2017 does not deal with the Personal Clerk promottee Assistant Section Officers in ONE Unit, but the same is only in respect of Senior Assistant promottee Assistant Section Officers in ONE Unit. If that be the case, it is not understandable as to how the petitioners in W.P.No.16906 of

2020, who were initially appointed as Personal Clerks and then promoted as Assistant Section Officers are aggrieved by the amendment made through G.O (Ms) No.110, Personnel and Administrative Reforms (U-Spl) Department, dated 29.09.2020 amending G.O (Ms) No.31, Personnel and Administrative Reforms (U-Special) Department, dated 01.03.2017. Neither G.O (Ms) No.31, dated 01.03.2017 nor G.O (Ms) No.110, dated 29.09.2020 deals with the Personal Clerks promotee Assistant Section Officers and therefore, in the considered view of this Court, they have no *locus* to question the G.O (Ms) No.110 dated 29.09.2020.

29. In the light of the above, this Court does not find any error or illegality or arbitrariness in the impugned G.O (Ms) No.110, Personnel and Administrative Reforms (U-Spl) Department, dated 29.09.2020.

30. Accordingly, this Court does not find any merit in these Writ Petitions and the same are accordingly dismissed. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

27.09.2024

skr
Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No

To

1. The Secretary to Government of Tamil Nadu,
   Personnel and Administrative Reforms Department,
   Secretariat, Fort St. George,
   Chennai – 600 009.

2. The Additional Chief Secretary to Government of Tamil Nadu,
   Finance Department, Secretariat,
   Fort St.George, Chennai – 600 009.

MUMMINENI SUDHEER KUMAR, J.

skr

Pre-Delivery Order made in
W.P.Nos.15269 and 16906 of 2020

27.09.2024