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W.P.No.19616 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.No.19616 of 2023
and
W.M.P.No.18874 of 2023

P.Vasanth

... Petitioner

Vs.

- 1.The Registrar General,
High Court of Judicature,
High Court Madras,
Chennai – 600 104.
- 2.The Sessions Judge,
Special Court for SC/ST Act Cases,
Namakkal,
Namakkal District.
- 3.The Chief Administrative Officer,
District Court, Namakkal,
Namakkal District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent impugned order in ROC.No.40/2022 dated 18.08.2022 and quash the same and consequently direct the respondents to restore the



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petitioner's scale of pay at Rs.19,500 – 62,200 + 2400 and continue to pay the same in the present post and also to refund the recovered excess salary amount from the month of August 2022.

For Petitioner : Mr.P.Rajavel
For Respondents : Mr.M.Kempraj
Panel Advocate

ORDER

(Order of this Court was made by S.M.SUBRAMANIAM,J.)

This Writ Petition has been filed challenging the order passed by the 2nd respondent dated 18.08.2020 and further to direct the respondents to restore the petitioner's scale of pay at Rs.19,500 – 62,200 + 2400 and continue to pay the same in the present post and also to refund the recovered excess salary amount from the month of August 2022.

2. The petitioner was originally appointed as Junior Assistant on 11.02.2010. Her pay was erroneously revised from 11.02.2010 to 31.07.2022. The respondents would submit that as per G.O.Ms.No.340, Finance (PC) Department dated 26.08.2010, the new recruits appointed between 01.01.2006 and 31.05.2009 are eligible for multiplying the pre-revised pay of Rs.3,200/- with factor of 1.86.



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2.2 However, the petitioner was appointed only on 11.02.2010.

Therefore, she is not eligible for multiplying the pre-revised pay of Rs.3,200/-. Even on the date of appointment, the petitioner was granted revised scale of pay. Thus, the benefit extended in G.O.Ms.No.340, Finance (PC) Department dated 26.08.2010, cannot be extended to the employees, who were appointed subsequent to the Government Order. Mere date of selection or publication of selection list cannot be the criteria for fixation of pay. Date of appointment of an employee alone is the criteria for the purpose of fixation of pay or grant of revision of scale of pay. The right accrues only from the date of appointment and not from the date of selection or publication of Selection List or otherwise.

2.3 More so, the Government Order issued in G.O.Ms.No.340, Finance (PC) Department dated 26.08.2010 was made applicable to the employees appointed between 01.01.2006 to 31.05.2009. G.O.Ms.No.340 was issued to rectify the pay anomalies pursuant to the recommendations of Official Committee 2009. When the G.O stipulates that the anomaly aroused in respect of all the employees, who were appointed between 01.01.2006 and

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31.05.2009, such rectification of anomaly cannot be implemented for the employees, who were appointed subsequent to the cut of date.

3. In the present case, the petitioner was admittedly appointed on 11.02.2010 beyond the cut of date fixed in G.O.Ms.No.340. Therefore, action initiated to refix the scale of pay is in accordance with the Pay Rules and Government Orders in force. However, the revised fixation was granted at the instance of the establishment and there was no mis-representation or any undertaking by the petitioner at the time of refixation. Thus, the recovery at this length of time would cause hardship to the employee working in the cadre of Junior Assistant, which is a Group-C post. Therefore, we are inclined to set aside the recovery alone. The revised fixation done in accordance with the G.O. is upheld.

4. In view of the facts and circumstances, the revision of fixation effected is confirmed and the recovery imposed alone is set aside. If any excess salary paid to the petitioner has already been recovered, the said portion of the recovered amount is directed to be refunded within a period of twelve weeks from the date of receipt of a copy of this order. Accordingly,



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the Writ Petition stands **disposed of**. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S.J.] [K.R.S.J.]
04.03.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

- 1.The Registrar General,
High Court of Judicature,
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Chennai – 600 104.
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S.M.SUBRAMANIAM,J.
AND
K.RAJASEKAR,J.

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Order in
W.P.No.19616 of 2023

04.03.2024
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