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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

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**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.25975 of 2016

Tamil Nadu Judicial Ministerial Officers' Association,
Rep. by its General Secretary T.Senthilkumar,
1st Street, Ashok Annexe, Narasothipatti, Salem – 7.

... Petitioner

Vs.

1. The Registrar General,
High Court of Madras,
Chennai – 600 104.

2. The Principal District Judge,
Erode District, Erode.

3. The Principal Accountant General (A&E) of Tamil Nadu,
O/o the Accountant General,
Teynampet, Chennai – 600 018.

... 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 pertaining to the impugned remarks made by the 3rd Respondent in No. Pr AG (A&E)/ PEN/ PO2/ 10218888/2/RO218888 Dated 16.03.2016 and Consequential impugned order of the proceedings A.No.603/ 2014 D.No.5286 Dated 01.06.2016 on the file of the 2nd Respondent and quash



the same consequently direct the respondents 2 and 3 to give full effect to the proceedings in A. No.603/ 2014, D.No.13911 Dated 30.12.2014 of the 3rd Respondent and continue to implement the same without any adverse remarks or decision.

For Petitioner : Mr.Sharath Chandran
For R1 & R2 : Mr.R.Vijayakumar
For R3 : Mr.V.Vijayashankar

ORDER

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

The Writ Petition has been instituted by Tamil Nadu Judicial Ministerial Officers' Association, represented by its General Secretary. The proceedings of the learned Principal District Judge, Erode dated 01.06.2016 is sought to be quashed in the present Writ Petition.

2. The impugned proceeding denotes that the Accountant General of Tamil Nadu has stated that the post of Bench Clerk Grade III is not a promotional post from the post of Assistant. The staff members in the Judicial Department are working as Bench Clerk Grade III in the Civil and Criminal Courts. Therefore, they are not entitled for any increment in the



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post of Bench Clerk Grade III. The learned Principal District Judge, Erode identified certain erroneous fixation of pay to these employees working in the cadre of Bench Clerk Grade III. Thus, common instructions are issued to recover the excess fixation of one increment and correct the fixation, as per the Pay Rules and the Government Orders in force. Such common instructions issued vide Proceedings dated 01.06.2016 cannot be construed as a cause for entertaining the the present Writ Petition, since the petitioner / Association has not even enclosed the list of members and more so, the fixation of pay, Grant of increment, recovery of excess pay are individual grievances of the employees, which cannot be agitated through the Association by filing a common Writ Petition. The order, if any, passed cannot be implemented, since the writ petitioner has not even furnished the list of members and fixation of pay are made based on the service particulars of the individuals.

3. The learned counsel for the writ petitioner would submit that as per the recommendations of the Shetty Commission, the Government passed an order in G.O (Ms) No.329, Home Department dated 23.04.2009. As per the said Government order, the members of the petitioner association working



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in the cadre of Bench Clerk Grade III are eligible to draw one increment on their redeployment to the post of Bench Clerk Grade III from the post of Assistant.

4. The learned counsel for the respondents would oppose the said contention by stating that redeployment is not a promotion. The post of Assistants and Bench Clerk Grade III carry identical scale of pay. Therefore, there cannot be any discrimination against these two cadres in the matter of fixation of pay or grant of additional increment. The employees are posted either as Assistants on the Ministerial side or as Bench Clerk Grade III to work in the court on need basis and considering the administrative exigencies. Thus, the redeployment of an employee to the post of Bench Clerk Grade III would not provide any concession or confer additional pay benefits. The said legal position has been clarified by the Hon'ble Division Bench of this Court in the case of ***V.Rajasekaran -vs- The Principal District Judge, Salem District*** by order dated 29.09.2021 in W.P.No.5696 of 2024. The relevant portion of the judgment stands extracted hereunder:-

“ 4. So as not to allow the personnel



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to stagnate in one position and to rotate the employees from one section or department to another, the exercise of redeployment is undertaken by the employer. Redeployment may also happen upon the employer finding a particular employee more suitable in a different position than the position where such employee has been placed. Since redeployment does not entail any privilege or benefit, as to how and when and in what manner the exercise of redeployment would be conducted, is not something that a concerned employee may assert. It is possible that one employee may not be redeployed whereas his colleagues in the same post may all be redeployed.

5. The exercise of redeployment, if appreciated, will provide the key to the



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matter. Redeployment is for the administrative purpose and may or may not be as per the exigencies. It may be a routine redeployment or it may be a redeployment based on a particular need or for other purposes that the employer may think it appropriate to bring about greater efficiency in the functioning. It does not give or take away any benefit or right and, as such, an employee who has been redeployed or another who has not been considered for being redeployed cannot raise any grievance since there is no material benefit - and, consequently prejudice - suffered by the concerned employee. In a sense, it is akin to a transfer from one department to the other and the only benefit or advantage may be that the department could be closer to the gate or further away from the gate.”



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5. The Government order in G.O (Ms) No.450 dated 11.08.2011 also indicates the post of Assistants and the post of Bench Clerk Grade III carry identical pre-revised scale pay of Rs.4000-6000 with the rate of increment of Rs.100/- The claim of the members of the petitioners association regarding grant of one additional increment was further clarified by the Finance Department in letter dated 09.10.2012, which reads as under:-

“12. In this connection, it may be stated that as per rule 10 of the Tamil Nadu Revised Scales of Pay Rules, 2009, employees on promotion to higher posts are entitled for the benefit of one increment benefit equal to 3% of the sum of the pay in the pay band and the existing grade pay computed and rounded off to the next multiple of 10 and the same will be added to the existing pay in the pay band. On the same analogy, it is clarified that the employees on promotion to higher posts on



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identical scales of pay i.e. in the same pay band and same Grade pay in the revised pay structure are also entitled for the benefit of one increment equal to 3% of Basic Pay (Pay + Grade pay) in the lower post.”

6. The learned counsel for the respondent would submit that the error occurred on account of the proceedings of the learned Principal District Judge, Erode dated 30.12.2014. The common instructions given in the said letter was mistakenly understood by the administration and one increment to the employees working in the post of Bench Clerk Grade III was granted in excess and subsequently, the error was identified and therefore, another common instruction was issued by the learned Principal District Judge, Erode on 01.06.2016, which is under challenge in the present Writ Petition.

7. Therefore, we hold that the Writ Petition is not entertainable in view of the fact that the fixation of pay and recovery of excess salary are individual grievances of the employees and Association cannot file a Writ



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Petition for refixation of pay of the individual employees or regarding the recovery of excess pay sought to be made by the Administration. Secondly, the writ petitioner in the present case has not even furnished the list of members, who all are aggrieved. In the absence of any such details, the relief if considered would lead to miscarriage of justice. Thus, petitioner Association is not an aggrieved person.

8. Further, in view of the fact that the post of Assistants and Bench Clerk Grade III carry identical scale of pay and redeployment of Assistants to the post of Bench Clerk Grade III are made on administrative exigencies or on need basis, the employees working in the post of Bench Clerk Grade III are not entitled for any additional benefits. If such additional benefits are granted it will result in discrimination amongst the Assistants and Bench grade III working in the equivalent cadre in the identical scale of pay.

9. Thus, we are not convinced with the arguments, as advanced on behalf of the writ petitioners. Accordingly, the Writ Petition stands dismissed. No costs.



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(S.M.S.,J.) (K.R.S.,J.)
05.03.2024

skr

Index : Yes

Speaking order

Neutral Citation : Yes

To

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