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W.P.Nos.6253 and 6256 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

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THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.P.Nos.6253 and 6256 of 2020
and W.M.P.Nos.7372, 7373 and 7376 of 2020

W.P.No.6253 of 2020:

A.Samraj

...Petitioner

Vs.

1. The Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat,
Chennai - 600 009.

2. The Additional Chief Secretary to Government,
Finance Department,
Secretariat,
Chennai - 600 009.

3. Agricultural Production Commissioner
and Secretary to Government,
Agriculture Department,
Secretariat,
Chennai - 600 009.

...Respondents

W.P.No.6256 of 2020:

M.Elakkumidevi

...Petitioner

vs.

1. The Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat,
Chennai - 600 009.



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2. The Additional Chief Secretary to Government,
Finance Department,
Secretariat,
Chennai - 600 009.

3. The Principal Secretary to Government,
Higher Education Department,
Secretariat,
Chennai - 600 009.

...Respondents

Prayer in W.P.No.6253 of 2020: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, call for the records relating to the Letter No. 13428 / U.Spl / 2014-14 dated 10.10.2018 passed by the 1st respondent, quash the same and consequently direct the 1st and 2nd respondents to upgrade stepping up of pay scale of Seniors like the petitioner on par with his juniors and consequently to grant upgradation in the seniority and consequently, revise the pay scale from the post of Under Secretary to Government to the post of Joint Secretary to Government within a time frame as may be stipulated by this Court.

Prayer in W.P.No.6256 of 2020: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, call for the records relating to the Letter No. 6846/ U.Spl / 2014-07 dated 23.10.2018 passed by the 1st Respondent, quash the same and consequently direct the 1st and 2nd respondents to upgrade stepping up of pay scale of Seniors like the petitioner on par with his juniors and consequently to grant upgradation in the seniority and consequently revise the pay scale from the post of Under Secretary to Government to the post of Joint Secretary to Government within a



time frame as may be stipulated by this Court.

For Petitioner : Mr.M.Kempuraj
in both petitions

For Respondents : Mr.A.M.Ayyadurai,
Government Advocate
for R1 to R3 in both petitions

COMMON ORDER

The learned counsel for the petitioner would fairly submit that the issue in these Writ Petitions is squarely covered by the orders of the learned Single Judge passed in W.P.Nos.15269 and 16906 of 2020 dated 27.09.2024 in the case of K.Dhayalan and others v. The State of Tamil Nadu represented by its Secretary to Government, Personnel and Administrative Reforms Department, Secretariat, Fort St. George, Chennai. The relevant paragraphs are paragraphs 22, 23, 26 and 27 and the same read as follows:-

“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



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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.

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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



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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.”

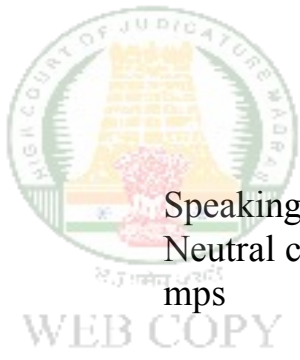
2.Therefore, the issue involves in these Writ Petitions is no longer *res integra* and has already been considered by the learned Single Judge of this Court. Therefore, in line with the order of the learned Single Judge passed in W.P.Nos.15269 and 16906 of 2020 dated 27.09.2024, the instant Writ Petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

24.10.2024

Index

:Yes/No

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Speaking order :Yes/No
Neutral citation :Yes/No
mps

To

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Chennai - 600 009.
2. The Additional Chief Secretary to Government,
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3. The Agricultural Production Commissioner
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C. KUMARAPPAN, J.

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