



W.P.No.26714 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.26714 of 2022
and W.M.P.No.25773 of 2022

K.Anbalagan

.. **Petitioner**

Vs.

1.The Additional Director General of Police
Office of the ADGP
No.10, Armed Police Headquarters
Lotus Garden, Kilpauk
Chennai – 600 010.

2.The Inspector General of Police
Office of the IGP
Armed Police Headquarters
Kilpauk
Chennai – 600 010.

3.The Commandant – XIV Battalion
Office of the Commandant
TSP XIV Battalion
Palani.

.. **Respondents**



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Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records of the order passed by the 3rd respondent in Na.Ka.No.B1/8192/2021 dated 10.05.2022 and quash the same as illegal, arbitrary and non-est in law and consequently, direct the respondents to rectify the pay anomaly with effect from 18.03.2013 with all consequential monetary benefits and to disburse the arrears with 12 % interest.

For the Petitioner : Mr.A.R.Balaji

For the Respondents : Mr.C.Jayaprakash
Government Advocate

ORDER

The Writ Petition is filed calling for the records on the file of the 3rd respondent, relating to the impugned order dated 10.05.2022 to quash the same and consequently rectify the pay anomaly with effect from 18.03.2013 with all consequential monetary benefits and to disburse the arrears with interest at the rate of 12 % per annum.

2.The case of the petitioner is that he and one Venkatesan were



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appointed to the service on the same date i.e., 17.03.1986 as Grade II Police Constables. Further, they were promoted as Havildar on the same day, that is on 18.03.1994. As on the date of promotion, both their scales of pay were one and the same. Both the petitioner as well as the said Venkatesan were further promoted as Sub-Inspector of Police on 18.03.2003 and their pay was fixed at Rs.5,300/- at the same level. Thereafter, the petitioner was promoted as Inspector of Police on 01.01.2011, even though the said Venkatesan was also within the zone of consideration, he relinquished the promotion and continued in the post of Sub-Inspector of Police itself. Since Venkatesan continued in the post of Sub-Inspector, he was conferred with selection grade pay, subsequently, he was promoted as Inspector of Police with effect from 16.07.2017 and his pay was fixed at Rs.23,870/-. Finally, he voluntarily retired from service on 31.01.2018 and his last drawn salary as on 31.01.2018 was Rs.64,600/-. However, when the petitioner was working as Inspector of Police and superannuated from service, his pay was Rs.60,600/-. Therefore, in view of the pay anomaly, the petitioner's pay has to be stepped up and rectified by the respondents. When the petitioner made



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a representation, the same was rejected by the impugned order dated 10.05.2022. The only reason which is mentioned in the impugned order is that even at the time of initial appointment, the said Venkatesan had the educational qualification of 10th standard, whereas the petitioner's educational qualification was only a pass in 8th Standard.

3. According to the learned counsel appearing for the petitioner, the same can never be a criterion to reject the case of the petitioner. He would submit that the respondents are not denying the fact that the said Venkatesan is junior to the petitioner. The respondents also not deny the pay disparity between the senior and the junior. The learned counsel for the petitioner while drawing the attention of this Court to the comparative tabular column filed by the respondents in the counter affidavit, would submit that it can be seen that from 17.03.1986, upto the promotion to the post of Havildar no disparity in pay had occurred though the different educational qualifications existed. On 18.03.1994, both the petitioner as well as the Venkatesan were promoted as Havildar on the same day and their pay was fixed at Rs.1,200/-



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at the same level. Therefore, the level of Havildar as well as further promotion at the level of Sub-Inspector of Police their pay was one and the same. Pay anomaly arose only because of the fact that the said Venkatesan relinquished his promotion and in that process, he was conferred special grade in the post of Sub-Inspector of Police and thereafter when he was subsequently promoted, the pay anomaly arose. Therefore, the higher qualification, which the said junior had at the initial stage of appointment in the year 1986 can never be a relevant criteria. As a matter of fact, at the relevant point of time, the petitioner had also passed the 10th standard after obtaining due permission. Therefore, he would submit that the Writ Petition deserves to be allowed.

4.Per contra, the learned Government Advocate would submit that the petitioner cannot compare himself with the said Venkatesan. The tabular column clearly depicts that the initial pay which was fixed for the petitioner is Rs.505/-, whereas, the said Venkatesan's initial pay was fixed at Rs.525/- as on 17.03.1986. Therefore, when the petitioner and the other person had



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different educational qualifications, the cases between them are not comparable and therefore, the Writ Petition is liable to be dismissed.

5.I have considered the rival submissions made on either side and perused the material records of the case.

6.The fact that Mr.Venkatesan is junior to the petitioner is admitted. It is essential to reproduce the comparative tabular statement which is made by the respondents in Pg.6 of their counter affidavit. For ready reference the same is reproduced hereunder:-



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Pay Drawn Particulars from entry level post to retirement
(Only in order to verify the correctness of the pay fixed to both)

K.Ambalagan						R.Venkatesan					
Post held	Scale of Pay / Pay Band / Pay Matrix (Rs.)	Date	Pay (Rs.)	* Reason / Rule for Pay fixation	Ref. page No. in SB	Post held	Scale of Pay / Pay Band / Pay Matrix (Rs.)	Date	Pay (Rs.)	* Reason / Rule for Pay fixation	Ref. page No. in SB
(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
Gr II	Rs 535-10-555-15	17.03.1985	Rs 505	FR 22(E)	4	Gr II	Rs 535-10-555-15	17.03.1986	Rs 525	FR 22(B)	2
PC	615-20-785					Gr II	Rs 615-20-785	17.03.1986	Rs 525	FR 22(B)	2
							So Two advanced increments for SBLC Pass G.O. 1247 Dt: 27.06.1987				
		01.01.1987	Rs 515	Increment	4			01.07.1987	Rs 535	Increment	2
	Pay stepped up with pay of junior post 924 Havildar as per sub rule 12(E)(2) of GO 685 Finance dated: 27.05.1989.	01.07.1988	Rs 640	FR 22(E)	17		Pay stepped up with pay of junior post 1596 Munjawal of TSP Battalion, Trichy, as per Memo 2472/GA/190, Dt: 17.05.1983, and CIG, AP, Memo in C.No A5/16004/9 2 Dt: 15.02.1990.	01.07.1985	Rs 670	FR 22(B)	5
		01.07.1989	Rs 855	Increment	17			01.07.1989	Rs 885	Increment	5
		01.07.1990	Rs 870	Increment	17			01.07.1990	Rs 900	Increment	5
		01.07.1991	Rs 885	Increment	17			01.07.1991	Rs 920	Increment	5
		01.07.1992	Rs 930	Increment	17			01.07.1992	Rs 940	Increment	5
		01.07.1993	Rs 920	Increment	17			01.07.1993	Rs 960	Increment	5
	S.O.No-925/95 C.No. A16701/90, Dt: 16.12.1990 The Service in the Category of LNK AK and Havildar	15.03.1994	Rs 1200	FR 22(B)	23		Promoted as Havildar (GEN) on 18.03.1994 TSP-1200-90-1560-40-2040	18.03.1994	Rs 1200	Increment	52
		01.01.1995	Rs 1230	Increment	23			01.01.1995	Rs 1230	Increment	52
	GO Ms No.162, Fin(PC) Dept. Dt: 13.04.1995 (w.e.f. 01.01.1996) TSP 4000-100-6000	01.01.1996	Rs 4000	With Pay Commission	23		GO Ms No.162, Fin(PC) Dept. Dt: 13.04.1995 (w.e.f. 01.01.1996) TSP 4000-100-6000	01.01.1996	Rs 4000	With Pay Commission	52
		01.01.1995	Rs 4100	Increment	23			01.01.1995	Rs 4100	Increment	52
		01.01.1997	Rs 4200	Increment	23			01.01.1997	Rs 4200	Increment	52



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	01.01.1998	Rs.4300 + PP 215	Increment	23
	01.01.1999	Rs.4400 + pp 215	Increment	23
	01.01.2000	Rs.4500 + PP 215	Increment	24
	01.01.2001	Rs.4600 + PP 215	Increment	26
	01.01.2002	Rs.4700 + PP 215	Increment	26
	01.01.2003	Rs.4800 + PP 215	Increment	130
Promoted as SI (GEN) on 18.03.2003 TSP- 5300-150-8300	18.03.2003	Rs.5300	FR 22(B)	130
	01.01.2004	Rs.5450	Increment	130
	01.01.2005	Rs.5600	Increment	130
With Pay Commission Fixed as Per G.O.Ms.234 Finance (PC) Dept. Dt.01.06.2009 GP - 4800	01.01.2006	Rs.5600 x 1.85 = 10416 = 10420 + 4800 = 15220	With Pay Commission	131
	01.01.2006	Rs.15680	Increment	131
	01.01.2007	Rs.16150	Increment	131
	01.01.2008	Rs.16640	Increment	131
	01.01.2009	Rs.17140	Increment	131
	01.01.2010	Rs.17660	Increment	131
Promoted as Inspector of Police on 08.09.2010 Pay Fixed as Inspector of police as per rule 22(1)(a)(1) (Pay Band 9300-34800+G.P.5100)	01.01.2011	17660 +530 +550 +300 =19040	Pay fixation	131
G.O.419, Fin(Pay cell) Dept. Dt.12.11.2020, Rs.1000 per month Notionally of W.e.1.01.02.2011.	01.02.2011	=19040 + PP 1000	Increment	41
	01.01.2012	Rs.19640	Increment	41
	01.01.2013	Rs.20260	Increment	41

	01.01.1998	Rs.4300 + PP 215	Increment	52
	01.01.1999	Rs.4400 + PP 215	Increment	52
	01.01.2000	Rs.4500 + PP 215	Increment	52
	01.01.2001	Rs.4600 + PP 215	Increment	53
	01.01.2002	Rs.4700 + PP 215	Increment	53
	01.01.2003	Rs.4800 + PP 215	Increment	53
Promoted as SI (GEN) on 18.03.2003 TSP- 5300-150-8300	18.03.2003	Rs.5300	FR 22(B)	53
	01.01.2004	Rs.5450	Increment	53
	01.01.2005	Rs.5600	Increment	53
With Pay Commission Fixed as Per G.O.Ms.234 Finance (PC) Dept. Dt.01.06.2009 GP - 4800	01.01.2006	Rs.5600 x 1.85 = 10416 = 10420 + 4800 = 15220	With Pay Commission	53
	01.01.2006	Rs.15680	Increment	54
	01.01.2007	Rs.16150	Increment	54
	01.01.2008	Rs.16640	Increment	54
	01.01.2009	Rs.17140	Increment	54
	01.01.2010	Rs.17660	Increment	54
	01.01.2011	Rs.18190	Increment	54
	01.01.2012	Rs.18740	Increment	54
	01.01.2013	Rs.19310	Increment	54
He was moved	18.03.2013	Rs.20470	Increment	54



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	01.01.2014	Rs.20900	Increment	41	
	01.01.2015	Rs.21500	Increment	42	
	01.01.2016	Rs.22240	Increment	42	
VII th Pay Commission Pay Fixed as per G.O.No.303, Finance (Pc) Dept. Dt.11.10.2017 Pay Matrix Level- 20(14)	01.01.2016	Rs.22240 + 2.57 = 57,156.8 =58800 Level -20, Index-16	VIII th Pay Commission	42	
	01.01.2017	=Rs.53500 Level -20 Index-17	Increment	42	
Superannuation	31.10.2017	-60,600 Level -20, index-17		42	

7. On a careful perusal of the same, it would be clear that the said Venkatesan initially had the higher qualification of 10th Standard and his pay was fixed at Rs.525/-, while the petitioner's pay was fixed at Rs.505/- far as the cadre of Grade II Police Constables criteria is concerned. However, the pay of the petitioner and the said Venkatesan's pay became the same level



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with effect from 18.03.1994 upon promotion to the post of Havildar.

Therefore, the possession of higher qualification and fixation of higher pay prior to the cadre of Havildar was not at all relevant to the instant case.

8.Both of them were also promoted as Sub-Inspector of Police on the same day, i.e., 18.03.1994 and it can be seen that their pay was fixed at the same level, i.e., Rs.1,200/- and they were drawing equal pay and increments. It can be seen that the turn for promotion to the post of Inspector of Police, for both the petitioner as well as the said Venkatesan came on 01.01.2011. When Venkatesan relinquished his promotion, the petitioner was promoted. In the meanwhile, since the said Venkatesan had put in 10 years of service, he was granted with selection grade and thereafter belatedly when he was promoted as Inspector of Police, his pay was fixed at a higher rate, i.e., at Rs.64,300/-, while the petitioner was drawing lower pay i.e., Rs.60,600/- as on 31.10.2017.

9.Thus, it can be seen that on account of the reasons not attributable



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to the petitioner, but only on the vagaries in fixation of the pay scale on the part of the respondents, a person who relinquished promotion for a period of 3 years and thereafter accepted promotion is fixed with more pay, while the petitioner's pay is less. In such a situation, as per the explanation to FR 22 (B), the petitioner's pay has to be fixed on par with that of his junior. However, it can be seen that the pay anomaly occurred as early as in the year 2017, the petitioner filed the Writ Petition only in the year 2022, after his superannuation. It can be seen that in matters of fixation of pay, it is a continuous cause of action, however, the petitioner will be entitled to arrears from the period of one year prior to the filing of the present Writ Petition alone.

10. Accordingly, the Writ Petition is allowed on the following terms:-

(i) The impugned order is quashed;

(ii) The respondents are directed to rectify the pay anomaly of the petitioner by granting him such pay so as to match the pay of the junior – R.Venkatesan, with effect from 17.07.2017 and accordingly, re-fix all his



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last drawn pay and also pension. However, the petitioner will not be entitled for any other arrears, except the arrears of pension from September 2021, i.e., one year prior to the filing of the present Writ Petition.

(iii)The respondents shall complete the exercise of granting such special pay and arrears within a period of three months from the date of receipt of a copy of this order.

(iv)No costs. Consequently connected miscellaneous petition is closed.

03.04.2024

Index : Yes
Neutral Citation : Yes
Speaking order : Yes
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To

1.The Additional Director General of Police
Office of the ADGP
No.10, Armed Police Headquarters
Lotus Garden, Kilpauk
Chennai – 600 010.

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Office of the IGP
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D.BHARATHA CHAKRAVARTHY, J.

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