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W.P.No.31681 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE VIVEK KUMAR SINGH

W.P.No.31681 of 2022
and
W.M.P.No.31120 of 2022

Dr.K.Sivasubramaniyan
Petitioner

...

Vs.

1. The State of Tamil Nadu,
Represented by the Additional Chief Secretary to Government,
Finance Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

2. The Agricultural Production Commissioner and Principal
Secretary to Government,
Agricultural Department,
Secretariat,
Fort St.George,
Chennai- 600 009.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus directing to call for the records pertaining to the impugned order in G.O.(D) No.158 Agriculture [AA4(2)] Department, dated 11.09.2020 on the file of the second respondent and quash the same as illegal and direct the respondents to re-



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fix the pay as Rs.9300-34800 + 4200 GP and grant all consequential service, monetary benefits on par with the pay fixed to the similarly situated persons and grant such other further relief.

For petitioner : Mr.T.Arul

For respondents : Mr.M.Muthusamy

ORDER

This writ petition is filed seeking to quash the order in G.O.(D) No.158 Agriculture [AA4(2)] Department, dated 11.09.2020 on the file of the second respondent and to re-fix the pay of the petitioner as Rs.9300-34800 + 4200 GP and grant all consequential service, monetary benefits on par with the pay fixed to the similarly situated persons.

2. The very same prayer was sought in the case of ***K.Athinarayanan and others vs. The State of Tamil Nadu and another¹***. The said writ petition was allowed by this Court *vide* order dated 09.07.2024. For the sake of ease of reference, the said order is extracted in its entirety as under:

The petitioners, who are all working as Assistant Agricultural Officers and Assistant Horticulture Officers, approached this Court by

¹ W.P.(MD).No.15788 of 2021 decided on 09.07.2024



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filing the writ petition in WP(MD)No.20895 of 2017 on an earlier occasion. This Court, by order, dated 22.03.2019 directed the respondents to consider the claim of the petitioners for fixation of their pay on par with the Lab Assistant in other Departments, in respect of whom, educational qualification was fixed as +2 and Diploma. The basis for the petitioners to make such a claim is that the qualification for the post of Assistant Agricultural Officer also was fixed as +2 qualification with Diploma in Agriculture. However, the pay of the Assistant Agricultural Officer is fixed at Rs.5,200 - Rs.20200/- whereas the basic pay of the Lab Assistant, Junior Drafting Officer, Pharmacist, Diary Extension Assistant Officer is fixed at Rs.9,300- Rs.34,800/-, though the educational qualification of the above said posts are also +2 qualification along with a Diploma. The said claim of the petitioners was stated to have been considered after affording an opportunity of personal hearing to the petitioners before the Director of Agriculture and finally the claim of the petitioners was rejected by the Government by issuing impugned Government Order in G.O.Ms.No.158 dated 11.09.2020 and the operative portion of the said Government Order reads as under:

“6. The Government after careful examination of the orders of the Hon'ble Madurai Bench of Madras High Court, dated 22.03.2019 in W.P(MD)No.20895 of 2017 and their request during personal hearing on 14.06.2019 to refix their pay in the pay band of Rs. 9300-34800+G.P. 4200 on parity with the similarly placed employees of other departments



but not by this Court.

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4. Yet another case with respect to the same matter has already been dealt with by this Court in batch of writ petitions in W.P(MD)Nos.17163 to 17165 of 2020 etc., dated 04.04.2024 and favourable orders were passed in favour of the petitioners therein and the relevant portion of the same is extracted as follows:

“77. In this batch of writ petitions, apart from Assistant Engineers belonging to various departments, there are also petitioners, who are falling under other categories like Electrical Inspectors, Assistant Electrical Inspectors, Chief Electrical Inspectors, Agricultural Officers, Assistant Directors of Agriculture, Inspectors of Fisheries and also Motor Vehicle Inspectors. This batch also includes pensioners/family pensioners, who had held the posts of Joint Director of Agriculture, Assistant Director of Horticulture, Agricultural Officer, etc. It is not necessary for this Court to get into the grievance that has been expressed on the side of these petitioners for the very same reason that the PGRC2019 did not independently go into the grievances expressed by the respective association/individual employees and rather, it had confined its inquiry only to the correctness or otherwise of the



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OMC, G.O.Ms.No.71 dated 26.2.2011, the PGRC-2012 and G.O.Ms. No.242 dated 22.7.2013.”
“82. The new PGRC need not bind itself or restrict its decision making process by applying its mind on the OMC, G.O.Ms.No.234 dated 01.6.2009, G.O.Ms.No.71 dated 22.6.2011, the PGRC 2012, G.O.Ms.No.242 dated 22.7.2013 and the PGRC 2019, which resulted in the issuance of consequential impugned Government Orders. The new PGRC shall consider the issue afresh by dealing with the representations given by the associations/individual employees of various departments. 83. The upshot of the above discussions leads to the following conclusions and directions issued by this Court : (i) The report of the PGRC 2019 and the consequential impugned Government Orders issued are hereby set aside; (ii) The Government shall constitute a new PGRC under the Hon'ble Mr.Justice M.Sathyanarayanan, formerly Judge of High Court, Madras, who shall be the Chairman of the new PGRC; (iii) The Chairman of the new PGRC is at liberty to coopt two experts as he deems appropriate as Members of the new PGRC and it will be more appropriate to co-opt members, who had experience on the financial side and also on the



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engineering side;

(iv) The Government is at liberty to nominate one or two senior level IAS officer(s) at the level of Principal Secretary, serving or retired as Member(s) of the new PGRC; (v) The remuneration for the Chairman of the new PGRC shall be fixed at Rs.3.5 lakhs per month and the remuneration of the two Members to be coopted shall be fixed at Rs.2 lakhs each per month; (vi) It is left open to the Government to fix the remuneration of the Member(s) of the Committee to be nominated by the Government, if he/she is/they are retired IAS Officer(s); (vii) The Government is directed to constitute the new PGRC within a period of four weeks from the date of receipt of a copy of this order and the Government shall grant six months' time for the new PGRC to submit its recommendations regarding the enhancement/reduction of the pay scales/ grade pay of 52 or more categories of 20 or more departments, etc.; (viii) The terms of reference of the new PGRC shall also be to examine the recommendations of the Seventh Central Pay Commission on the scales of pay and other allowances and make necessary recommendations in consequence of the recommendations to be

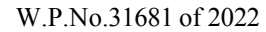


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made as per Clause (vii); (ix) While making the recommendations on the scales of pay/ grade pay, the new PGRC shall take into account the historical parity, local conditions, qualifications, the nature of duties, the job responsibilities attached to the post and the local relativities. This shall also include the revision of pension, family pension, retirement benefits, etc., and the new PGRC shall make necessary recommendations; (x) In view of the direction issued by this Court for constitution of the new PGRC, the present status quo shall be maintained until a fresh decision is taken by the Government based on the recommendations to be given by the new PGRC; (xi) As clarified in the earlier order passed by the Division Bench in W.A.No.1271 of 2021 dated 27.4.2021, the pay protection that was given by virtue of the interim orders will be subject to the result of the recommendations to be given by the new PGRC, which will be implemented by the State Government; if any excess payment has been made to the petitioners, the same shall be repaid back in view of the undertaking that was given before this Court; (xii) There shall be a direction to the State Government to make available the office premises with supporting staff and to provide a Government



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Connected W.M.P.is closed. Connected W.M.P is closed. No costs.

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Index : Yes/No
Internet : Yes/No
Citation : Yes/No

VIVEK KUMAR SINGH,J.

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To,

1. The Additional Chief Secretary to Government,
Finance Department,
Secretariat,
Fort St.George,
Chennai – 600 009.
2. The Agricultural Production Commissioner and Principal
Secretary to Government,
Agricultural Department,
Secretariat,
Fort St.George,
Chennai- 600 009.

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