



WEB COPY



W.P. No.28594 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.28594 of 2019

K.Mohan

... Petitioner

Vs.

1.Govt. of Puducherry,
By its Chief Secretary,
Chief Secretariat, Goubert Avenue,
Puducherry.

2.Govt. of Puducherry,
By its Secretary to CCD.

3.Govt. of Puducherry,
By its Secretary DP & AR,
Chief Secretariat, Goubert Avenue,
Puducherry.

4.Govt. of Puducherry,
By its Secretary Legislative Assembly,
Legislative Assembly Secretariat,
Puducherry.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the 4th respondent in No.5654/LAS/Estt/E1/2018 dated 28.05.2018 & 02.01.2019 and quash the same and consequently direct the 4th respondent to grant the petitioner 2nd and 3rd financial upgradation in the Grade Pay of



W.P. No.28594 of 2019

Rs.4,800 and Rs.5,400/- w.e.f. 20.06.2008 and 20.06.2014 respectively.

For Petitioner : Mr.C.Vigneswaran
For Respondents : Mr.R.Syed Mustafa
Special Government Pleader(Service)
Pondicherry.

WEB COPY

ORDER

The petitioner was initially appointed as Tamil Junior Grade Stenographer on 20.06.1984 by way of direct recruitment in Legislative Assembly Secretariat of Government of Puducherry. Thereafter, he was promoted to the post of Tamil Reporter on 20.09.1990. While the petitioner was in service, he was extended benefit of “Assured Career Progression Scheme”(in short 'ACP') on completion of 12 years of service in the year 1999 and thereafter another upgradation in the year 2008. Thereafter, the petitioner retired from service voluntarily on 31.08.2016.

2. The ACP scheme was existing till 2008 was superseded by Modified Assured Career Progression Scheme (in short 'MACPS') through Official Memorandum No.35034/3/2008-Estt (D) dated 19.05.2009 issued by the Government of India. According to the petitioner, the petitioner was not extending the benefit of said MACPS and thereafter, he made a claim for extending the benefit of said MACPS. Though the same was considered by



the respondents, the petitioner was informed that the proposal submitted by the 4th respondent was returned by the DP & AR Department on the following observations:

“feeder and promotional posts of Tamil Reporter and Editor of Debates are in the identical scale and the second ACP which falls before 01.09.2008 shall be the same grade pay of Rs.4600/- and third MACP to the grade pay of Rs.4800/- which already been granted by Legislative Assembly Secretariat. Hence no further action is warranted in this matter”

3. Thereafter, the petitioner once again submitted yet another representation dated 09.08.2018, but the said representation was also not considered by the respondents and the petitioner was informed that he is not entitled for the benefits through communication dated 02.01.2019. It is aggrieved by the said order dated 28.05.2018 and 02.01.2019, the petitioner approached this Court by filing the present writ petition.

4. The learned counsel for the petitioner has drawn the attention of this Court to the Official Memorandum dated 19.05.2019 under which the petitioner is making a claim for award of upgradations especially para 5 of the said official memorandum. Paragraph 5 of Annexure 1 of the said official



memorandum reads as under:

“Promotions earned/upgradations granted under the ACP scheme in the past to those grades which now carry the same grade pay due to merger of pay scales/upgradations of posts recommended by the Sixth Pay Commission shall be ignored for the purpose of granting upgradations under Modified ACPS.

The pre-revised hierarchy (in ascending order) in a particular organization was as under:-

Rs.5000-8000, Rs.5500-9000 & Rs.6500-10500.

(a) A Government servant who was recruited in the hierarchy in the pre-revised pay scale Rs.5000-8000 and who did not get a promotion even after 25 years of service prior to 01.01.2006, in his case as 01.01.2006 he would have got two financial upgradations under ACP to the next grades in the hierarchy of his organization, i.e., to the pre-revised scales of Rs.5500-9000 and Rs.6500-10500.

(b) Another Government servant recruited in the same hierarchy in the pre-revised scale of Rs.5000-8000 has also completed about 25 years of service, by he got two promotions to the next higher grades of Rs.5500-9000 & Rs.6500-10500 during this period.

In the case of both (a) and (b) above, the promotions/financial upgradations granted under ACP to the pre-revised scales of Rs.5500-9000 abd Rs.6500-10500



prior to 01.01.2006 will be ignored on account of merger of the pre-revised scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 recommended by the Sixth CPC. As per CCS (RP) Rules, both of them will be granted grade pay of Rs.4200 in the pay band PB-2. After the implementation of MACPS, two financial upgradations will be granted both in the case of (a) and (b) above to the next higher grade pays of Rs.4600 and Rs.4800 in the pay band PB-2.

6. In the case of all the employees granted financial upgradations under ACPS till 01.01.2006, their revised pay will be fixed with reference to the pay scale granted to them under the ACPS.”

From the above extracted paragraph, it is evident that all promotions earned/upgradations granted under the previous ACP scheme are directed to be ignored, in case if the past promotions/upgradations granted under ACP scheme now carry the same grade pay due to merger of pay scales/upgradation of posts recommended by the sixth Pay Commission.

5. The petitioner who was initially appointed as Tamil Junior Grade Stenographer was promoted to the post of Tamil Reporter and his further promotional evenue is Editor of Debates. In the sixth Pay Commission, the post of Tamil Reporter as well as the post of Editor of Debates carry the same



scale of pay namely Rs.9,300/- to Rs.34,800 with grade pay of Rs.4,600/-.

There is no dispute on this aspect. If that be the case, by giving effect to para 5 and 6 of the official memorandum dated 19.05.2009, the promotions/upgradations granted under the previous ACPS are liable to be ignored and the case of the petitioner is required to be considered for granting financial upgradations, as the petitioner has admittedly completed 30 years of service since the date of initial appointment on 24.06.1984. From the impugned orders it does not appear that the respondents have taken note of the said official memorandum dated 19.05.2009 especially para 5 and 6, while rejecting the claim of the petitioner.

6. In the circumstances, this Court is of the considered view that the impugned orders issued basing upon the clarification issued by the Department of Personnel Administrative Reforms cannot be allowed to sustain and the respondents are under obligation to re-consider the claim of the petitioner by duly taking note of the official memorandum dated 19.05.2009 especially para 5 and 6.

7. In the light of the above, the impugned orders are accordingly set



W.P. No.28594 of 2019

aside and the matter is remanded back to the 4th respondent to re-consider the case of the petitioner by duly taking into consideration, the above referred official memorandum and pass appropriate orders in accordance with law within a period of eight (8) weeks from the date of receipt of a copy of this order. The petitioner is granted liberty to submit appropriate representation before the 4th respondent within a period of two (2) weeks from the date of receipt of a copy of this order, making his claim clear to the 4th respondent.

8. Accordingly, this writ petition is allowed and the connected miscellaneous petitions, if any, shall stand closed. No costs.

27.06.2024

Index : Yes/No
Speaking Order : Yes/No
dpa

MUMMINENI SUDHEER KUMAR,J.

dpa

To:

1.The Chief Secretary,
Govt. of Puducherry,
Chief Secretariat, Goubert Avenue,
Puducherry.

Page No.7 of 8



W.P. No.28594 of 2019

WEB COPY

2. The Secretary to CCD,
Govt. of Puducherry,

3. The Secretary DP & AR,
Govt. of Puducherry,
Chief Secretariat, Goubert Avenue,
Puducherry.

4. The Secretary Legislative Assembly,
Govt. of Puducherry,
Legislative Assembly Secretariat,
Puducherry.

W.P.No.28594 of 2019

27.06.2024