



W.P(MD).Nos.14672 & 18436 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 30.08.2024

ORDER PRONOUNCED ON : 03.09.2024

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD).Nos.14672 & 18436 of 2022

P.Asokan

...Petitioner in both petitions

Vs

1.The Secretary to Government
Social Welfare and Women Empowerment Department
Secretariat, Chennai 600 009

2.The Principal Accountant General (A&E)
Office of the Principal Accountant General
361, Anna Salai, Thenampettai
Chennai 600 018

3.The Director
Social Defence Department
300, Purasaiwakkam High Road
Chennai 600 010

...Respondents in both the petitions

Prayer in W.P(MD).No.14672 of 2022 : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to revise the pension of the petitioner and release the same accrued with all other benefits.

Prayer in WP(MD).No.18436 of 2022: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining the impugned order in PO6/4/10622694/ADK



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dated 12/12/2019 on the file of second respondent and quash the same and directing the respondent Nos.2 and 3 to revise the pension of the petitioner and release the same accrued with all other benefits.

(In both petitions)

For Petitioner : Mr.S.A.Ajmalkhan

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1 & R3

: Mr.P.Gunasekaran
Standing Counsel for R2

COMMON ORDER

Both these writ petitions have been filed by a retired Observation Home Superintendent working in the Social Defence Department seeking revision of his pensionary benefits.

2.W.P(MD).No.14672 of 2022 has been filed seeking a mandamus to revise the pensionary benefits. The office of the Accountant General of Tamil Nadu had passed an order on 12.12.2019 rejecting the request of the petitioner and has returned the service book. Challenging the said order, WP(MD).No.18436 of 2022 has been filed.

3.Since the prayer in both the writ petitions are interconnected, both the writ petitions are tagged together and a common order is being passed.



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4.The petitioner herein was working as a Headmaster at Middle School in Government Children Home, Thattaparai which comes under the control of Social Defence Department. According to the petitioner, he was promoted as an Observation Home Superintendent by way of an order passed by the Director of Social Defence on 12.02.2016. On such direction, he was placed in the pay scale of Rs.9300-34800-G.P.5100. From the date of his promotion till the date of his retirement on 30.04.2017, the petitioner was receiving the grade pay of Rs.5100/-. However, when the pension proposals were forwarded to the Accountant General Office, they have rejected the same by an order dated 12.12.2019 on the ground that G.O.Ms.No.244 Finance (Pay Cell) Department, dated 22.07.2013 is not applicable to the petitioner. Hence, the present writ petition.

5.According to the learned counsel appearing for the writ petitioner, when he was working as an Headmaster a Middle School, he was receiving pay scale of Rs.9300-34800+ G.P.Rs.4700/-. Post of Observation Home Superintendent is a promotional post and therefore, he is eligible to receive G.P.of Rs.5100/-. He had further contended that by way of G.O.Ms.244 Finance (Pay Cell) Department dated 22.07.2013, the existing grade pay of Observation Home Superintendent was enhanced from Rs.4900/- to



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Rs.5100/- and therefore, when the promotion order was issued to the writ petitioner on 12.02.2016 as Observation Home Superintendent, his grade pay was regularly fixed at Rs.5100/-. Therefore, the order impugned in the writ petition is not legally sustainable and he prayed for setting aside the said order and to revise the pensionary benefits, fixing Rs.5100/- as his grade pay and for other consequential benefits.

6.Per contra, the learned Special Government Pleader appearing for the respondents had relied upon Tamil Nadu Social Defence Subordinate Service Rules and contended that the post of Observation Home Superintendent is not a promotional post from the post of Headmaster of Middle School, but it is only a appointment by transfer of service. They further contended that G.O.Ms.No.244 Finance (Pay Cell) Department dated 2207.2013 is applicable only for a further promotional post from the post of Superintendent. The petitioner was never promoted from the post of Superintendent to a higher post namely Supervisor. Therefore, the above said Government Order was not applicable to him. The learned counsel had further contended that entire mistake has happened only due to the order passed by the Director of Social Defence Department dated 12.02.2016 in which the appointment of the petitioner as Observation Home Superintendent was shown as a promotion, when the same is only transfer by way of appointment. Hence, he prayed for dismissal of the writ petitions.



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7.I have considered the submissions made on either side and perused the material records.

8.The primary contention of the writ petitioner is that the post of Headmaster of approved School is the feeder category to the promotional post of Observation Home Superintendent. Therefore, when he was promoted on 12.02.2016, his grade pay was fixed at Rs.5100/-. A perusal of the table in Rule 2 of the Tamil Nadu Social Defence Subordinate Service Rules reveals that the post of Superintendent can be filled up either through direct recruitment or by transfer of service from Assistant Superintendents or Headmasters of Middle School. The post of Superintendent is a promotional post only for Secondary Grade Teachers. Therefore, it is clear that, when the petitioner was appointed as a Superintendent of the Observation Home, he was already holding the post of Headmaster of Middle School. Therefore, his appointment as Superintendent is only by way of transfer of service and not by way of promotion. However, the Director of Social Defence Department while appointing the petitioner as Superintendent of Observation Home, Tirunelveli has erroneously mentioned that it as an order of promotion fixing grade pay to the petitioner at Rs.5100/-. The grade pay of the Middle School Headmaster is Rs.4700/- and the same would be applicable even when the petitioner is appointed as Superintendent of an Observation Home.



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9.The learned counsel for the petitioner had relied upon G.O.Ms.No. 244 Finance (Pay Cell) Department, dated 22.07.2013 to contend that the existing grade pay of Rs.4900/- was enhanced to Rs.5100/- for Observation Home Superintendent under the said Government Order and therefore, he is eligible for the same. A perusal of the said G.O reveals that the said revision of grade pay of Rs.5100/- is applicable only for the posts which are above the cadre of Superintendent. It is an admitted fact that the petitioner was never promoted above cadre of Superintendent and he retired as a Superintendent only. Therefore, the reliance placed by the writ petitioner on the above said Government Order is misplaced and the same is not legally sustainable.

10.A perusal of the impugned order in W.P(MD).No.18436 of 2022 reveals that the office of the Accountant General has rightly returned the pension proposals on the ground that the petitioner is not eligible to invoke the benefits under G.O.Ms.No.244 Finance (Pay Cell) Department, dated 22.07.2013. Therefore, this Court does not find any illegality in the order impugned in W.P(MD).No.18436 of 2022. Since the petitioner is not eligible for grade pay of Rs.5100/-, the question of issuing a mandamus as prayed for under W.P(MD).No.14672 of 2022 does not arise.



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11.In view of the above said deliberations, there are no merits in both
the writ petitions and the same stands dismissed. No costs.

03.09.2024.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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2.The Director
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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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03.09.2024