



W.P.(MD)No.18048 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2024

CORAM

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.18048 of 2021

and

W.M.P.(MD)No.14911 of 2021

G.S.T.Joodhith Prince

: Petitioner

Vs.

1.The State of Tamil Nadu,

Rep. by its Principal Secretary to Government,
Environment, Climate Change and Forests (FR.8) Department,
Fort ST. George,
Chennai – 600 009.

2.The Managing Director,

Arasu Rubber Corporation Ltd.,
Vadaseri,
Nagercoil,
Kanyakumari District – 629 001.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent in his proceedings in Na.Ka.No.Pa1/11192/17, dated



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20.04.2021, quash the same as illegal and consequently directing the respondents 1 & 2 herein to revise the scale of pay of the petitioner for the post of 'Junior Draughting Officer' (JDO) from Rs.5200 – 20200 + 2800/- as Rs.9300-34800 + 4200/- w.e.f. the date of initial appointment of the petitioner viz., 01.12.2010 along with monetary benefits by extending the benefit of G.O.(Ms).No.329, Finance (Pay Cell) Department dated 26.08.2010 and G.O.(Ms).No.268, Finance (Pay Cell) Department dated 22.07.2013 and disburse the monetary benefits within a time frame as fixed by this Court.

For Petitioner : Mr.C.Prithvi Raj

For Respondent No.1 : Mrs.D.Farjana Ghoushia,
Special Government Pleader

For Respondent No.2 : Mr.A.K.Manikkam

ORDER

This Writ Petition has been filed challenging the impugned order dated 20.04.2021 passed by the second respondent rejecting the petitioner's request for pay revision on par with Government employees.

2.The petitioner is employed as a Junior Drafting Officer in the office of the second respondent. The grievance of the petitioner



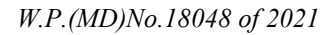
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that his scale of pay has not been fixed on par with the Government servants. He made a representation to the second respondent seeking to fix his scale of pay on par with the Government servants which has been rejected as seen from the impugned order dated 20.04.2021.

3.The second respondent has stated in the impugned order that the petitioner's representation was forwarded to the first respondent who has not approved the request of the petitioner and therefore under the impugned order the request of the petitioner has been rejected.

4.Learned Counsel for the petitioner relied upon a judgment of the Division Bench of this Court dated **23.12.2021** passed in **W.A.Nos.484 of 2014 and 2183 of 2021** in the case of **Government of Tamil Nadu represented by Secretary to Government Vs. S.Karunanithi and M/s.Arasu Rubber Corporation Limited [second respondent herein]**. In particular he relied upon paragraphs 24 and 25 of the said judgment which is reproduced hereunder:

*“24.Rule 34 of the Service Rules of the 2nd
Respondent Corporation reads as under:*



25. On a scrutiny of the above said Rule 34, this Court is able to find that in view of the said Rule 34, certainly the petitioner would be entitled to get the pay scale and other allowances, etc., on par with the State Government Employees from time to time. This fact has not been considered by the first Respondent Government. The interpretation given by the 1st Respondent Government and the 2nd Respondent Corporation to Rule 34, cannot be accepted as the said Rule, not only covers 'Pay', but also all other 'Allowances', etc. Hence, in the opinion of this Court, on receiving the proposal of the 2nd Respondent Corporation, the 1st Respondent Government ought to have approved the same in favour of the Petitioner, in the light of Rule 34 of the Service Rules of the 2nd Respondent Corporation and the principle of 'Equal Pay' for 'Equal Work', leaving the 2nd Respondent Corporation to bear the financial burden, but the 1st Respondent Government had miserably failed to do so."



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5.He would submit that since the petitioner is also an employee of M/s.Arasu Rubber Corporation, a Government of Tamil Nadu undertaking, the decision rendered by the Division Bench in the aforesaid decision also applies to the case of the petitioner and therefore, the scale of pay of the petitioner has to be on par with other Government servants as held by the Division Bench of this Court referred to supra.

6.A counter affidavit has also been filed by the second respondent reiterating the contents of the impugned order. However, as seen from the impugned order, no reasons have been given except stating that the request of the petitioner if granted will cause financial burden to the State. The decision rendered by the Division Bench of this Court referred to supra has made it clear that as per Rule 34 of the Service Rules of the second respondent Corporation, the pay scale and other allowances payable to the employees of the second respondent Corporation has to be on par with the State Government employees from time to time. But the same has not been considered in the impugned order. In the decision rendered by the Division Bench dated 23.12.2021 referred to supra, it was also a case involving the very same Corporation namely M/s.Arasu Rubber Corporation Limited, where the petitioner is also



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working. Since by total non-application of mind to the decision rendered by the Division Bench of this Court on 23.12.2021 in W.A.Nos.484 of 2014 & 2183 of 2021, the impugned order has been passed, necessarily, the impugned order has to be quashed and the matter has to be remanded back to the respondents for fresh consideration on merits and in accordance with law in the light of the decision rendered by the Division Bench of the this Court dated 23.12.2021 referred to supra, within a time frame to be fixed by this Court.

7.In the result, the impugned order dated 20.04.2021 passed by the second respondent is hereby quashed and the matter is remanded back to the respondents for fresh consideration on merits and in accordance with law in the light of the decision rendered by the Division Bench of this Court dated 23.12.2021, referred to supra. The second respondent is directed to submit a fresh proposal to the first respondent seeking for approval for fixation of the scale of pay of the petitioner based on the petitioner's earlier representation which has been rejected under the impugned order within a period of four [4] weeks from the date of receipt of a copy of this order on merits and in accordance with law, after giving due consideration to the judgment of the Division Bench of this Court dated 23.12.2021. On receipt of the said proposal from the second



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respondent, the first respondent shall pass appropriate orders within a period of three [3] months, thereafter.

8. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes / No

NCC : Yes/No

MR



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To

1.The Principal Secretary to Government,
State of Tamil Nadu,
Environment, Climate Change and Forests (FR.8) Department,
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Chennai – 600 009.

2.The Managing Director,
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ABDUL QUDDHOSE, J.

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