



W.A.(MD) No.742 of 2015

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A.(MD) No.742 of 2015

S.Mehaboobjohn

....Appellant/Petitioner

-VS-

1.The Secretary to Government,
Department of Industries and Commerce,
Government of Tamil Nadu,
Secretariat,
Chennai-9.

2.The Commissioner cum Director,
Directorate of Industries and Commerce,
Government of Tamil Nadu,
Chennai-5.

3.The Deputy Director-Chemical (i/c),
Regional Testing Lab,
Madurai-7.

...Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order,
dated 04.01.2013, passed in W.P.(MD) No.378 of 2012.

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For Appellant : Mr.P.Muthuvijayapandian

For Respondents : Mr.A.Kannan

Additional Government Pleader

J U D G M E N T

[Judgment of the Court was made by A.D.JAGADISH CHANDIRA, J.]

When the matter was posted on 10.06.2024, there was no representation for the appellant and thereby, this Court directed the Registry to post the matter on 11.06.2024 'for dismissal' and on 11.06.2024 the learned counsel for the appellant appeared before this Court and he sought time stating that he will argue the matter on 01.07.2024 and also sought to remove the caption 'for dismissal' and thereby, this Court removed the caption and posted the matter for orders today i.e., on 01.07.2024. Today, the learned counsel for the appellant seeks time.

2. This writ appeal has been filed against the order of the learned Single Judge dismissing the writ petition filed by the petitioner seeking for writ of mandamus directing the first and second respondents to fix the Grade Pay

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WEB Rs.6,600/- to the petitioner based on the Government Letter No.63305/Pay Cell/2010-1, dated 08.11.2010 of the Finance (PC) Department, Government of Tamil Nadu.

3. The learned Single Judge finding that the date of issue of the G.O.Ms.No.234, Finance Department was 01.06.2009 and that the petitioner had already moved to the Special Grade of the post of Librarian Grade-I with effect from 11.08.2008 and thereafter, after the issuance of the Government Order, he was given an option and that he exercised the option to have the benefit of fixation of pay in the post of Librarian Grade-I with effect from 01.01.2006 (Ordinary Grade Post) and that as per the Government letter, dated 08.11.2010 the petitioner was entitled only to the fixation of pay in the scale of Rs.15,600-Rs.39,100 + Rs.5,400/-, had dismissed the writ petition. Challenging the same, the appeal had been filed.

4. The learned Additional Government Pleader appearing for the respondents would submit that as per the Government Letter dated 08.11.2010 the question of fixation of pay revised Selection Grade / Special Grade posts were



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divided into 4 categories. Even prior to that, the petitioner had moved to the Special Grade to the post of Librarian Grade-I and he has given an option to have the benefit of fixation of pay with effect from 1.1.2006 and that the petitioner was granted one increment equal to 3% of the basic pay and thereby the petitioner's case cannot be brought within the Grade Pay of Rs.6,600/- instead of Rs.5,400/- as per the Government Orders and the learned Single Judge rightly finding that the petitioner is not entitled for the same had dismissed the writ petition.

5. Perused the affidavit and the grounds of appeal, the writ petitioner has based his claim relying on the Government Letter dated 08.11.2010. As per the Government Letter, the question of fixation of pay in the revised Selection Grade/Special Grade is divided into 4 categories. They are:-

"(i) Those, who were awarded Selection Grade/Special Grade prior to 1.1.2006 and in whose cases the ordinary Grade Scales of Pay have been revised based on the recommendations of the One Man Commission are entitled to the benefit.

(ii) Those, who have exercised the option to come over to the revised scales of pay on the date of their award of Selection Grade/Special Grade between 1.1.2006 and 31.05.2009 are also entitled to the benefit.



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(iii) A pre-condition for the extension of the benefit of the Government Letter is that even the scale of pay of the Ordinary Grade Post should have been revised on the basis of the recommendations of the One Man Commission and

(iv) Employees, who move to the Selection Grade or Special Grade after 1.6.2009, are not entitled to the benefit."

6. On the date of issue of G.O.Ms.No.234, Finance (PC) Department, dated 1.6.2009, the petitioner had already moved to the Special Grade of the post of Librarian Grade-I with effect from 11.08.2008. Immediately, after the issue of the Government Order, the petitioner had been given an option to have the benefit of fixation of pay in the post of Librarian Grade-I with effect from 1.1.2006 (Ordinary Grade Post). As per Annexure-I to the Government Letter, dated 08.11.2010, the petitioner was entitled only to the fixation of pay in the scale of Rs.15,600 -Rs.39,100 plus Rs.5,400/-. The petitioner though had moved to the Special Grade of the post of Librarian Grade-I, before 1.6.2009 after 1.1.2006, he had exercised the option to have the Ordinary Grade Pay fixation with retrospective effect from 1.1.2006 as per G.O.Ms.No.234. If the petitioner had chosen to have the Special Grade Pay fixed after the Government Order, he could



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have moved to the other scale of pay carrying a Grade Pay of Rs.6,600/-. Having failed to do so, and having exercised the option, the petitioner cannot revoke the same now. It is also seen that the petitioner was granted one increment equal to 3% of the basic pay. The petitioner, in view of the option so exercised cannot have a grievance.

7. The learned Single Judge, finding that it was the petitioner, who has exercised the option and that he was granted one increment equal to 3% of basic pay, had dismissed the writ petition. We do not find any infirmity in the order passed by the learned Single Judge and thereby it is confirmed.

8. Accordingly, this writ appeal is dismissed. No costs.

[A.D.J.C., J.] [K.R.S., J.]

01.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Department of Industries and Commerce,
Government of Tamil Nadu,
Secretariat,
Chennai-9.
- 2.The Commissioner cum Director,
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Government of Tamil Nadu,
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