



W.A.(MD).No.1166 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 20.02.2024

CORAM:

THE HON'BLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

AND

THE HON'BLE Mr.JUSTICE K.K.RAMAKRISHNAN

W.A.(MD).No.1166 of 2016

The Conservator of Forests,
Tiruchirappalli Circle,
Tiruchirappalli.

... Appellant

Vs.

A.Veeraiah

... Respondent

Prayer : Writ Appeal filed under Clauses 15 of Letters Patent, praying to allow this Writ Appeal by setting aside the order made in W.P.(MD).No. 10621 of 2010 dated 26.08.2010, on the file of this Court.

For Appellant : Mr.A.K.Manikkam

For Respondent : No Appearance



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JUDGMENT

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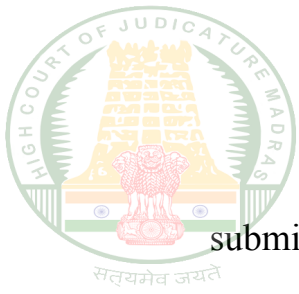
[Judgment of the Court was delivered by **V.BHAVANI SUBBAROYAN, J.**]

The appellant has filed this writ appeal to set aside the order dated 26.08.2010 made in W.P.No.10621 of 2010 passed by this Court.

2.Today, when the matter was taken up for hearing, there was no representation on behalf of the respondent.

3.This writ appeal has been filed against the order passed by the writ Court directing the appellant to grant special grade to the writ petitioner in the pay scale of Rs.5500-9000 as per the G.O.Ms.No.162 Finance (Pay Cell) Department, dated 13.04.1998.

4.According to the appellant, the respondent was working as a driver in the Forest Department, who filed the writ petition for mandamus, directing the appellant to sanction selection grade and special grade scale of pay as given in the schedule IV of the Tamilnadu Revised Scale of Pay Rules 1998 at Rs.5,000/- and Rs.5,500/- respectively. The petitioner



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submitted that the order was passed in W.A.(MD).Nos.383 to 389 of 2009

dated 01.09.2009 obtained by misrepresentation taking advantage of non mentioning of the cadres in G.O.Ms.No.162 Finance (Pay Cell) Department dated 14.04.1998 and the Hon'ble Supreme Court has also taken up the matter and decided the issue. According to them, the learned Single Judge has failed to note that the basic pay of the drivers is only in the scale of Rs.3,200-85-4900 in the ordinary grade and the State Government never issued any such order to the effect that the scale of pay for the post of driver in the ordinary grade as Rs.4000-100-6000.

5.According to the petitioner, the learned Single Judge had not taken into account G.O.Ms.No.162 dated 13.04.1998 and also the selection grade and special grade and non-mentioning of the guidelines in G.O.Ms.No.162 dated 13.04.1998, but the scale of pay has been wrongly referred by the writ petitioner instead of 3200-85-4900. They have taken into consideration the pay scale at Rs.4000-100-6000 as per G.O.Ms.No.666 dated 27.06.1989 in implementing the recommendations of the fifth pay commission. The posts of driver/van-driver were revised from the scale of pay from 610-1075 to 975-1500. The post of lorry driver and the tractor driver in the forest



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department and other departments have fixed the same scale of pay. The scale of pay was revised to 3200-85-4900 as per schedule I of the G.O.Ms.No.162 dated 13.04.1998. The selection grade and the special grade are mentioned for these categories in schedule II in column No.6 as 4000-100-6000 and 4300-100-6000 respectively. According to the petitioner, the scale of pay of assistants has been misrepresented as that of the drivers and orders have been obtained and the issues were considered.

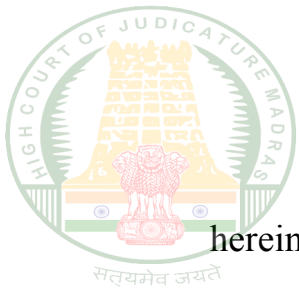
6.A uniform selection grade and special grade has been provided based on the ordinary grade scale of pay on a day to day basis to all categories of employees as per schedule II of G.O.Ms.No.162, Finance (Pay Cell) Department dated 13.04.1998. According to them, before sixth pay commission, it was 975-25-450-30-1660 for which the revised scale during sixth pay commission was fixed at Rs.3200-85-4900. On this aspects, schedule II was fixed and it is only Rs.4000-100-6000 and Rs. 4300-100-6000 and not Rs.5000-150-8000 and the selection grade Rs. 5500-175-9000 on the special Grade.



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7. According to them, the Secretary Finance (Pay Cell), who is the competent authority, has to fix the pay of the driver in the Government Department and the writ petition has to be dismissed. But, unfortunately, the Hon'ble Single Judge has taken into account that there is no need to direct the respondent to consider representation of the petitioner. The Division Bench has held that the drivers, who have been given with special grade are entitled to get a salary as per G.O.Ms.No.162, dated 13.04.1998. Following the same, the petitioner was also directed and they are entitled for the same. Challenging the same, the respondent herein namely, the appellant filed this appeal.

8. According to the learned counsel for the appellant, this issue was considered by a coordinate Bench of this Court in various batch of cases, wherein, it has been held that the writ petitions filed by the individual employees, claiming a selection grade of scale of Pay 5000-8000 and a Special Grade of 5500-9000, are liable to be dismissed and there are a few other petitions, wherein they are not granted selection grade and special grade pay of 4000-6000 and 4300-6000 respectively were to be considered. Accordingly, there is a clarification that all the writ petitioners/respondent



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herein are only entitled to selection grade scale of pay 4000-100-6000 and special grade scale of pay 4300-100-6000 but not more than that all the writ petitions were dismissed. The writ appeal filed by the State Government stands allowed. Challenging the same, the individual petitioners have filed SLP Civil No.53952 and 53958 of 2009 and the Hon'ble Supreme Court, confirming the order of the Division Bench, has held that the drivers concerned were not entitled to any promotion arrears, but according to them, the drivers are entitled to the full benefits of appropriate pay scale and schedule 2 of the 1992 Rules of 1992. In the light of the finding of the Apex Court, the persons employed in the post of driver in various departments of the Government of Tamilnadu are only entitled to ordinary selection and Special Grade Pay scale in terms of serial No.6 of schedule 2 of the 1984 Rules ie. Rs.3200-4900-4000-6000-4300-6000 respectively.

9.As such, the Government was directed to fix the pay scale benefit as per the terms of Serial No.6 of schedule 2 of 1984 under G.O.Ms.No.162 based on the above said judgment of the Hon'ble Supreme Court and the Division Bench, this Court is of the view that the appeal filed by the appellant, namely, The Conservator of Forests, Tiruchirappalli Circle, has to



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be allowed.

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10. Accordingly, this writ appeal stands allowed. The authorities has to fix the scale only as per G.O.Ms.No.162 serial No.6 dated 13.04.1984.

[V.B.S.J] [K.K.R.K.J.]
20.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

sbm

To

1. The Conservator of Forests,
Tiruchirappalli Circle,
Tiruchirappalli.



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**V.BHAVANI SUBBAROYAN, J.
AND
K.K.RAMAKRISHNAN, J.**

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