



*W.P.(MD)No.21067 of 2023*

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 07.11.2024**

**CORAM:  
THE HON'BLE MR JUSTICE R.VIJAYAKUMAR**

**W.P.(MD)No.21067 of 2023  
and WMP(MD).No.17474 of 2023**

M.Mayandi

... Petitioner

Vs.

1.The Principal Secretary to Government  
Handlooms, Handicrafts,  
Textiles & Khadi Department  
Fort St.George, Chennai -9

2.Tamil Nadu Khadi & Village Industries Board  
Represented by its Chief Executive Officer  
Kuralagam, Chennai 600 108

3.The Regional Deputy Director  
Tamil Nadu Khadi & Village Industries  
Madurai

4.The Assistant Director  
Tamil Nadu Khadi & Village Industries  
Tiruppur

5.The Deputy Director  
Local Fund Audit  
Kuralagam  
Chennai 600 108

.....Respondents



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**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the second respondent in his proceedings vide Lr.No.Na.Ka.No.9022/E1(2)/2015 dated 24.03.2023 and to quash the same as illegal and to direct the second respondent to revise the pensionary benefits in consonance with the 5<sup>th</sup>, 6<sup>th</sup> & 7<sup>th</sup> Pay Commission recommendations accordingly with all monetary benefits and arrears with effect from 21.09.1988, based on the representation of the petitioner dated ...07.2023 within the time frame fixed by this Court.

For Petitioner : Mr.S.Ramanathan

For Respondents : Mr.D.Sasikumar  
Additional Government Pleader  
for R1, R3 & R4

:Mr.Raghuvaran Gopalan for R2

**ORDER**

The instant writ petition has been filed by a retired Fitter working in the Tamil Nadu Khadi and Village Industries Board challenging the order passed by the second respondent herein on 24.03.2023 wherein the request of the petitioner for pay parity on par with the Government Servants as per Fifth Pay Commission was rejected.



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2.It is the case of the petitioner that as per service regulation applicable to Tamil Nadu Khadi and Village Industries Board, the General Rules for the State and Subordinate Services Fundamental Rules, Tamil Nadu Leave Rules and the Manual of Special Pay and Allowances, in so far as they may be applicable and except to the extent expressly provided in the regulations, it is applicable to the members of the Board. Therefore, according to the writ petitioner, the benefit arising under Fifth Pay Commission should have been extended to the writ petitioner. However, under the impugned order, the said request has been rejected on the ground that the said Fifth Pay Commission recommendation are not applicable to the employees of the Board.

3.The learned Standing Counsel appearing for the Khadi Board had relied upon an order of this Court in WP(MD).No.432 of 2011 dated 24.08.2012 wherein one of the Fitters namely A.Subramanian had filed a writ petition seeking to quash a similar order and for a mandamus seeking benefits under Fifth Pay Commission. The said writ petition was dismissed by this Court on 24.08.2012. The operative portion in Paragraph No.8 of the order is extracted as follows:

*“8.The fixation of pay and upgradation of post is the prerogative of the employer. The Khadi Board, which is an independent legal entity,*



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*decided to upgrade the post of the petitioner by accepting the representation filed by the petitioner to Fitter Grade I, and has also granted the pay scale attached to the post from the date of decision. The impugned order cannot be said to be arbitrary, as the petitioner did not have any vested right, to have the post upgraded with retrospective effect. The petitioner, being employee of Khadi Board, cannot claim equality with Government servants as they form different class. Recommendation of pay commission also become applicable only when adopted by the employer. It is not the case of the petitioner that the other employees of Khadi Board have been given retrospective upgradation. It is settled law that differently placed persons can not claim equality by invoking Articles 14 and 16 of the Constitution of India.”*

4.The order of the writ Court was put to challenge before the Hon'ble Division Bench in WA(MD).No.84 of 2013. The Hon'ble Division Bench was pleased to dismiss the writ appeal on 28.09.2013. The observations of the Hon'ble Division Bench in Paragraph Nos.11 and 12 are extracted as follows:

*“11. The only issue is as to whether the appellant was entitled for the revision with retrospective effect. The learned Single Judge came to a categoric conclusion that the writ petitioner/appellant does not have the legal right to demand for the retrospective effect of the revised scale of pay since no such allowance was given to any other employee in*



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*Khadi Board. The learned Single Judge came to a conclusion that the writ petitioner/appellant cannot seek for the same treatment that was given to the other departments belonging to the Government since the qualifications, method of appointment and duties and responsibilities assigned to the post are different.*

*12. In the considered view of this Court, we do not find any infirmity in the order passed by the learned Single Judge. The writ petitioner/appellant cannot seek for a retrospective effect when no such allowance was extended to any other employee of the Khadi Board. In any case, the appellant is no more and his brother is seeking for the financial benefits to which the appellant is not entitled to.”*

5.Even as per the case of the writ petitioner, the petitioner is placed on par with one Subramanian who is the petitioner in WP(MD).No.432 of 2011. Therefore, it is clear that unless Khadi Board had adopted the Fifth Pay Commission, the same would not be applicable to the employees of the Board. In such circumstances, the request of the petitioner to apply the recommendations of the Fifth, Sixth and Seventh Pay Commissions and disbursement of monetary benefits is not legally sustainable.



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6.In view of the above said deliberations, there are no merits in the writ petition and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**07.11.2024**

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

To

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**R.VIJAYAKUMAR, J.**

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