



W.P.No.1812 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2025

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

W.P.No.1812 of 2021

P.A.Sardar

... Petitioner

Vs.

The Chief Engineer (Agricultural Engineering),
487, Anna Salai,
Nandanam, Chennai – 600 035.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the respondent in Letter No.MePa3/26226/19 dated 05.08.2020 and quash the same and direct the respondent to grant Selection Grade Scale of Pay in the post of Junior Engineer (Agricultural Engineering) with effect from 22.11.2017 to the petitioner and pay him the arrears of pay with interest.

For Petitioner : Mr.P.Rajendran

For Respondent : Mr.L.S.M.Hasan Fazil
Additional Government Pleader

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ORDER

This Writ Petition is filed to call for the records relating to the impugned order of the respondent in Letter No.MePa3/26226/19 dated 05.08.2020 and quash the same and direct the respondent to grant Selection Grade Scale of Pay in the post of Junior Engineer (Agricultural Engineering) with effect from 22.11.2017, to the petitioner and pay him the arrears of pay with interest.

2.The petitioner was initially appointed as Assistant Soil Conservation Officer and later upgraded as Junior Engineer with effect from 22.11.2007. After completion of 10 years of service in the post of Junior Engineer, the petitioner became entitled to Selection Grade Scale of Pay in the post of Junior Engineer with effect from 22.11.2017. In fact, Selection Grade Scale of Pay in the VII Pay Commission Scales of Pay was awarded to several Junior Engineers who had completed 10 years of service in the post of Junior Engineer, including the petitioner's Colleagues. However, the same was not granted to the petitioner. The petitioner therefore, submitted a representation on 29.10.2018, and as the same was not considered, the petitioner filed a Writ



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Petition before this Court in W.P.No.29533 of 2018, for Mandamus, directing the respondent to grant him Selection Grade along with arrears and interest.

This Court vide order dated 09.12.2019, directed the respondent to consider the petitioner's representation dated 29.10.2018, and pass orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of the order. Thereafter, the Chief Engineer (Agricultural Engineering), Chennai – 35, passed the impugned order rejecting the petitioner's request for grant of Selection Grade. Aggrieved by the impugned order, the petitioner has filed the above writ petition for the aforesaid relief.

3.The respondent filed its counter stating interalia that though the petitioner became eligible for the Selection Grade Scale of Pay in the post of Junior Engineer on 22.11.2017, he was not awarded Selection Grade, because the prosecution sanction order was passed on 19.12.2017, according sanction for prosecuting the petitioner under various provisions of Prevention of Corruption Act, 1988, and for proceeding with the criminal case before the Jurisdictional competent Court. The respondent in the counter relied on the Government Letter No.18688/S/2010-3 dated 09.06.2011, and submitted that as the criminal case was pending against the petitioner, Selection Grade



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could not be awarded till the completion of the proceedings. The respondent therefore submitted that there was no infirmity in the impugned order and the same did not call for any interference.

4.The learned counsel for the petitioner submitted that the petitioner completed 10 years of service in the post of Junior Engineer and became eligible for grant of Selection Grade with effect from 22.11.2017, and as on the said day no disciplinary action or criminal case was pending against the petitioner the petitioner ought to have been awarded Selection Grade pay. According to the counsel even in the impugned order, the alleged sanction order to register criminal case was issued only on 19.12.2017, and therefore there was absolutely no justification for not granting Selection Grade to the petitioner. The learned counsel for the petitioner further submitted that the letter dated 09.06.2011, of the Government did not apply to the petitioner as it related to pendency of disciplinary action, Criminal Case etc., and in that context it was stated that the Selection Grade or Special Grade could not be awarded to the individual till the completion of the punishment. The learned counsel submitted that in the present case, no punishment was imposed on the petitioner and therefore there was absolutely no legal bar for the



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respondent to grant Selection Grade to the petitioner.

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5.The respondents on the other hand relied on the Government letter dated 09.06.2011 and submitted that as a Criminal case in C.C.No.4 of 2021 had been filed before the learned Chief Judicial Magistrate, Tiruvannamalai, and the same was pending against the petitioner, there was a legal bar for the respondent for awarding Selection Grade to the petitioner. The learned Additional Government Pleader therefore submitted that there were no merits in the writ petition and the same deserved to be dismissed.

6.I have heard both the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and I have perused the entire materials placed on record.

7.In the impugned order, the only reason cited for refusing Selection Grade to the petitioner was that the prosecution sanction order was issued on 19.12.2017, according sanction for prosecution of the petitioner under various provisions of Prevention of Corruption Act, 1988, and for proceeding with the criminal case before the Jurisdictional competent Court. It is to be



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seen whether the sanction for prosecution would be a bar for refusing

Selection Grade to the petitioner. The respondents relied on the letter of the

Government dated 09.06.2011, wherein it is stated as follows:

“4. it is clarified that movement to Selection Grade or Special Grade of the persons imposed with punishments including withholding of increment with or without cumulative effect, shall be considered in the year of completion of punishment only (i.e.) the next day after the completion of currency of punishment.”

8. According to the respondent, as per the clarification issued by the Government under the aforesaid letter, the Selection Grade could not be granted till the punishment was imposed to the petitioner in the criminal case. From a bare reading of the aforesaid letter, it is clear that the aforesaid letter is irrelevant to the facts of the case. The letter deals with the sanction of Selection Grade/Special Grade of the persons imposed with punishments including withholding of increment with or without cumulative effect. The letter only states that Selection Grade/Special Grade of the persons imposed with punishments including withholding of increment with or without cumulative effect, shall be considered in the year of completion of



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punishment only i.e. the next day after the completion of currency of punishment. In the present case no punishment was imposed, but mere sanction for prosecution order was passed that too, after a month of the petitioner attaining eligibility for selection grade.

9.It is also pertinent to note here that the petitioner admittedly became eligible for selection grade as early as on 22.11.2017 much before the prosecution sanction order was passed on 19.12.2017 and on the date of eligibility there was no disciplinary proceeding or criminal case pending against the petitioner. Under the facts and circumstances of the case and in the absence of any legal impediment for granting selection grade to the petitioner, I find that the impugned order cannot be sustained and the same is set aside and the writ petition is allowed. A direction is issued to the respondent to grant Selection Grade in the post of Junior Engineer to the petitioner with effect from 22.11.2017, along with arrears and interest at the rate of 6% per annum, within a period of 12 weeks from the date of receipt of a copy of this order.

10.Accordingly, this Writ Petition stands allowed. There shall be no



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order as to costs.

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Index : Yes / No

Internet : Yes / No

Speaking order/Non-speaking order
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To

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Nandanam, Chennai – 600 035.



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N.MALA, J.

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