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W.P. No. 26064 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 26064 of 2019

and

W.M.P. No. 25448 of 2019

S.Selvaraj

... Petitioner

-VS-

1. The Executive Director
Tamil Nadu Science and Technology Center
Gandhi Mandapam Road
Chennai-600025.

2. The Assistant Accounts Officer
Tamil Nadu Science and Technology Center
Gandhi Mandapam Road
Chennai-600025.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, to call for the records of the impugned proceedings of the first respondent dated 10.05.2019 vide proceedings No.2184/N1/2019 and to quash the same to be arbitrary, unreasonable.

For Petitioner : Mr.S.Senthil

For Respondents : Mr.S.Ilamvaludhi (RR1 & 2)



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been given with the selection grade pay in pursuant to the proceedings dated 16.04.2002.

4. However, on 10.05.1990, an order of recovery has been issued by stating that the petitioner has been given with the selection grade pay by calculating the services from 19.10.1989. But he has got qualified to be appointed as Heavy Duty Truck Driver only from 01.01.1995 and hence, the selection grade ought to have been given to him on 01.01.2005. On the above ground, the recovery order has been issued on 10.05.2019, which is the impugned order under challenge.

5. The learned counsel for the respondents submitted that even though the petitioner has been appointed as Heavy Duty Truck Driver on 19.10.1989, he was not given with the pay scale of Heavy Duty Truck Driver and he has acquired the qualification only in the year 1995 and hence, his 10 years of service of selection grade should be counted from 01.01.1995 and not from 19.10.1989.

6. The petitioner, who has been appointed as Office Assistant-cum-Driver did not declare that he has got a HDT driving license and that he should be



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appointed as the Heavy Duty Truck Driver. The respondent has appointed him on the recommendation made by the Selection Committee as Heavy Duty Truck Driver on transfer basis on 19.10.1989. In fact, his services have also been subsequently regularized with effect from 19.10.1989 in the post of Heavy Duty Truck Driver. There is no allegation against the petitioner that he did not successfully complete his the period of 2 years of probation after he has been appointed as Heavy Duty Truck Driver on 19.10.1989.

7. For the reasons best known to the respondents, they are not given the scale of pay of the Heavy Duty Truck Driver to the petitioner but he was given with the lower scale of pay. On the application made by the petitioner on 03.01.1995, his pay scale was revised with effect from 01.01.1995. Probably for this reason, the respondents have considered that the petitioner is entitled to get the selection grade on and from 01.01.1995 by conveniently forgetting the fact that he has been appointed to the post of Heavy Duty Truck Driver itself on 19.10.1989. His services have been regularized in the said cadre on 19.10.1989. When such is the case, it is not fair on the part of the respondents for allowing him to the selection grade only by counting his services as Heavy Duty Truck Driver only from 1995 instead of 19.10.1989, which is the date of appointment and regularization.



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8. The petitioner did not suppress any material facts as to his appointment to the post of the Heavy Duty Truck Driver or his regularization in the said post with effect from 19.10.1989 or the date when he was allowed to get the selection grade through the proceedings of the respondents dated 16.04.2002. Under such circumstances, without any basis, the respondents had issued the impugned order by cancelling the selection grade pay allowed to the petitioner from 19.10.1989 and revise it with effect from 01.01.2015 and consequently, issued the recovery order. At no point of time the petitioner was reverted to the post of Light Duty Vehicle Driver by citing the reasons that he did not possess the qualification or experience. Having allowed him to function as Heavy Duty Truck Driver on being satisfied with his performance as Heavy Duty Truck Driver, the respondents cannot down grade his benefits by counting the selection grade entitlement only from 03.01.1995 by stating that the petitioner has been given with the regularization also from 19.10.1989 in the post of Heavy Duty Truck Driver and he is not entitled to count his services as Heavy Duty Truck Driver on and from 19.10.1989 for getting the selection grade pay. Even for the sake of argument, it is accepted that the petitioner is not entitled to count his selection grade on and from 19.10.1989, the mistake is not on the part of the petitioner and that too, the above order is passed without even putting the petitioner on notice



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R.N.MANJULA, J.

Maya

9. Accordingly, this writ petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

13.02.2025

Index: Yes/No

Index: Yes/No

Internet: Yes/No

Speaking /Non-speaking order

Maya

To

1. The Executive Director
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