



W.P No. 9456 of 2017

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2025

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P No. 9456 of 2017

and

WMP.No. 10405 of 2017

K.R.Devaraj

..Petitioner

Vs

1. The Principal Commissioner & Director
Of Survey & Settlement,
Survey House, Chepauk,
Chennai -600005.

2.The Additional Director of Survey & Land Records,
Survey House, Chepauk,
Chennai-600005.

3.The Regional Deputy Director Survey
& Land Records,
Survey House, Chepauk,
Chennai-600005.

4.The Assistant Director of Survey & Land Records,
Collectorate, Vellore-9.

..Respondents



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Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records in relating to the impugned proceedings issued by the 4th respondent in Na.Ka.A8/5405/2016 dated 23.02.2017 and quash the same and consequently directing the respondents to sanction the pensionary benefits including regular pension by resubmitting the proposal with correct fixation of pay as ordered as per the proceedings in Na.Ka.No.A8/5405/2016 dated 01.12.2016 issued by the 4th respondent within a time frame to be fixed by this Court.

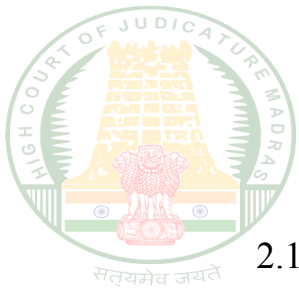
For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mr.LSM.Hasan Fizal, AGP

ORDER

The captioned writ petition has been filed for issuance of a writ of certiorarified mandamus, assailing the order dated 23.02.2017 and seeking a consequential direction to the respondents to sanction pensionary benefits, including regular pension, by resubmitting the petitioner's proposal with correct fixation of pay in terms of the proceedings issued by the 4th respondent in Na.Ka.No.A8/5405/2016, dated 01.12.2016.

2. The factual matrix leading to the filing of the present writ petition is briefly set out hereunder:

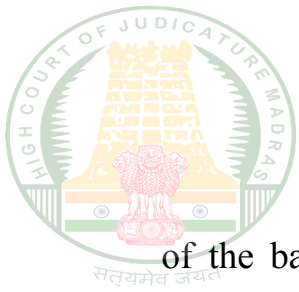


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2.1. The petitioner was initially appointed as a Surveyor in the Department of Survey and Land Records in the year 1983. He was subsequently promoted to the post of Firka Surveyor in the year 2010 and thereafter promoted to the post of Sub-Inspector of Survey on 31.01.2012. The petitioner retired from service on attaining the age of superannuation on 31.05.2016, while holding the post of Sub-Inspector of Survey.

2.2. According to the petitioner, while serving as a Firka Surveyor, he was temporarily promoted as Sub-Inspector of Survey on 31.01.2012, pending finalisation of the promotion panel. Subsequently, by proceedings dated 21.08.2013 issued by the 4th respondent, the petitioner's name was included in the 2010 promotion panel for the post of Sub-Inspector of Survey, and his promotion was regularised with retrospective effect from 25.04.2010, carrying with it all monetary benefits.

2.3. However, although the petitioner's promotion to the post of Sub-Inspector of Survey was regularised from 25.04.2010, monetary benefits were extended only from 31.01.2012, the actual date of promotion. At the time of such fixation, his salary was revised in the promoted post after allowing him to continue in the feeder post until the next annual increment was drawn, i.e., 3%



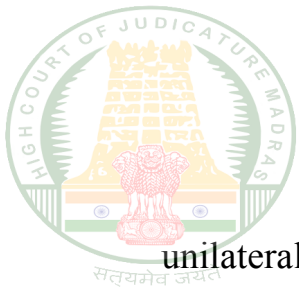
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of the basic pay, as per the Government Orders in G.O.Ms.No.237, Finance Department, dated 01.06.2009. The petitioner contends that his pay was thus correctly fixed in the promoted post of Sub-Inspector of Survey.

3. After the petitioner's retirement, when the pension proposal was forwarded to the office of the Accountant General, certain objections were raised. Pursuant to the same, the 4th respondent, by proceedings dated 01.12.2016, revised the petitioner's pay fixation which had earlier been granted in the promoted post.

4. According to the petitioner, the said revision was impermissible in law, inasmuch as the 4th respondent had not considered the mandatory requirement of awarding an increment equivalent to 3% of the basic pay in the feeder post prior to fixation of pay in the promoted post. Instead, without addressing this crucial aspect, the 4th respondent revised the pay scale and sought recovery of the alleged excess salary.

5. Aggrieved by this, the petitioner submitted detailed representations dated 02.09.2016 and 12.09.2016, requesting the 4th respondent to rectify the anomaly. However, instead of considering the same, the 4th respondent



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unilaterally passed the impugned order dated 23.02.2017, fixing the pay of the petitioner at ₹11,000 + 2800 (Grade Pay) and subsequently at ₹12,920 + 4800 with effect from 31.12.2012, and directed recovery of excess amounts already paid.

6. Learned counsel for the petitioner contended that the reduction of the petitioner's pay scale was based on an erroneous interpretation of Rule 22-B of the Fundamental Rules. It was submitted that the petitioner's pay was denied primarily on the ground that he had not exercised his option for fixation of pay under Rule 22(1)(b)(i) within the prescribed time. However, the respondents failed to appreciate that Rule 22-B, which governs fixation of pay on promotion, specifically provides that the benefit of 3% increment in the lower post must be extended unless the employee had opted under Rule 22(1)(a)(i) or 22(1)(b)(i). In the petitioner's case, since no such option had been exercised, he was automatically entitled to fixation of pay under Rule 22-B. Consequently, the impugned order dated 23.02.2017 is legally unsustainable.

7. Per contra, Mr. L.S.M. Hasan Faizal, learned Additional Government Pleader, submitted that the petitioner had failed to exercise his option for fixation of pay under Rule 22(1)(a)(i) or Rule 22(1)(b)(i) within 15 days from



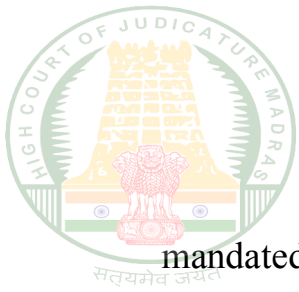
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the date of receipt of his promotion order. Therefore, he was not entitled to claim fixation under Rule 22-B. He further submitted that the proviso to Rule 22-B clearly stipulates that no fixation of pay shall be made under the said Rule if the employee had already opted under Rule 22(1)(a)(i) or 22(1)(b)(i), and hence the action of the 4th respondent was in consonance with the Rules.

8. The arguments advanced on behalf of both parties and the records placed before this Court have been carefully considered.

9. As already alluded to above, the petitioner was appointed as Surveyor in 1983 and was subsequently promoted as Sub-Inspector of Survey on 31.01.2012. Though his promotion was later regularised with retrospective effect from 25.04.2010, monetary benefits were restricted to 31.01.2012, the actual date of promotion. His pay was initially fixed in accordance with G.O.Ms.No.237, Finance Department, dated 01.06.2009, which permitted grant of a 3% increment in the feeder post prior to fixation in the promoted post.

10. However, upon the petitioner's retirement and during the scrutiny of pension proposals, the Accountant General raised objections, leading to revision of his pay by the 4th respondent, without granting the increment



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mandated under Rule 22-B. This Court finds that such denial was contrary to the scheme of Rule 22-B, which specifically provides that in the absence of any exercise of option under Rule 22(1)(a)(i) or 22(1)(b)(i), the pay fixation shall be made under Rule 22-B, entitling the employee to the 3% increment in the lower post.

11. In the present case, the 4th respondent has mechanically revised the pay fixation, ignoring this statutory requirement, and has also sought recovery of alleged excess salary, which cannot be sustained either on facts or in law.

12. Un amended Rule 22-B of FR which was in vogue as on the date of promotion of the petitioner as SI of survey is as follows ;

“22-B. Notwithstanding anything contained in these rules, where a Government servant holding a post in a substantive or officiating capacity, is promoted or appointed in a substantive or officiating capacity, to another post carrying duties and responsibilities of greater Importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by Increasing his pay in respect of the lower post by one increment, at the stage at which such pay has accrued. If the monetary benefit after such fixation falls short of five per cent of the pay drawn in the lower post, his pay in higher post shall be so fixed, allowing a minimum Increase of five per cent of the pay drawn in the lower post. Where the pay drawn in the lower post on the date of promotion or appointment plus five per cent of the pay drawn in the lower post is a stage in the time-scale of pay of the higher post, the pay shall be fixed at such stage in the time-scale of pay of the higher post.



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Where the pay drawn in the lower post on the date of promotion or appointment plus five per cent of the pay drawn in the lower post exceeds the amount arrived at for fixation of pay in the higher post under this rule but where there is no corresponding stage in the time-scale of pay of the higher post, the pay shall be fixed at the next higher stage in the time-scale of pay of the higher post.

(G.O. Ms. No. 778, Personnel and Administrative Reforms (FR.III). dated 8th August 1986-with effect from 1st October 1984.)

Provided that no fixation of pay under this rule shall be made in the case of a Government servant, who has opted for fixation of pay under rule 22(1) (a) (i) or under rule 22(1) (b) (1) read with rule 22(1)(a)(1), within 15 days from the date of receipt of the orders of promotion:”

13. What emerges from careful reading of the aforesaid rule is summarised as follows:

When a government employee is promoted to a higher post (with more responsibilities, his salary in the new post will be fixed as follows:

- i) His pay in the lower post will first be increased by one increment.
- ii) Then, in the higher post, his pay will be fixed at the next higher stage above that amount.
- iii) If this fixation gives him less than 5% increase over his pay in the lower post, then his salary in the higher post will be fixed so that he gets at least a 5% increase.



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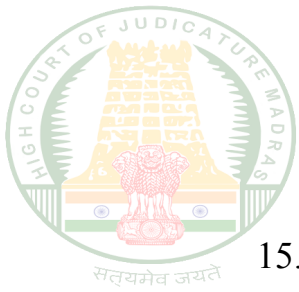
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iv) If the lower post pay + 5% matches an existing stage in the higher post's pay scale, his salary will be fixed at that stage.

v) If there is no exact match, it will be fixed at the next higher stage in the higher post's pay scale.

iv) This benefit of Rule 22-B will not apply if the employee has already chosen to fix his pay under Rule 22(1)(a)(i) or Rule 22(1)(b)(i). Such an option must be exercised within 15 days from receiving the promotion order

14. As already alluded to above, the petitioner has not exercised any option for fixation of pay under Rule 22(1)(a)(i) or Rule 22(1)(b)(i) of the Fundamental Rules. Consequently, the proviso appended to Rule 22-B does not operate as a bar in the petitioner's case. The petitioner is, therefore, squarely entitled to the benefit of pay fixation under Rule 22-B, which expressly mandates the grant of one additional increment in the lower post before fixing the pay in the promoted post, or at the very least, securing a minimum increase of 5% in the higher post. The denial of such statutory entitlement to the petitioner not only runs contrary to the express provisions of Rule 22-B but also amounts to arbitrary and discriminatory treatment, offending the principle of equality enshrined under Article 14 of the Constitution of India.



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15. In light of the foregoing discussions, the impugned order dated 23.02.2017 bearing Na.Ka.,A8/5405/2016 issued by the 4th respondent is hereby quashed. The writ petition is disposed of with the following directions;

- i. The respondents are directed to sanction the pensionary benefits to the petitioner including regular pension by resubmitting the proposal with correct fixation of pay, as ordered in the proceedings in Na.Ka.A8/5405/2016 issued by the 4th respondent and pay all the consequential monetary benefits, arising from the said re-fixation of pay.
- ii. The said exercise shall be completed within a period of three months from the date of uploading of this order in the official website.
- iii. Consequently, connected Miscellenous Petitions is closed. There shall be no order as to costs.

07.08.2025

Index : Yes/No

Internet : Yes/No

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HEMANT CHANDANGOUDAR, J.

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