



W.A.No.172 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 22.01.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**W.A.No.172 of 2025
and
C.M.P.No.1250 of 2025**

1. The Government of Tamil Nadu,
Represented by its Principal Secretary,
Home (Police V) Department,
Secretariat,
Chennai - 600 009.

2. The Director General of Police,
Chennai - 600 004.

... Appellants

-Vs-

N.Mathivanan

... Respondent

PRAYER : Appeal filed under Clause 15 of Letters Patent, to set aside the order in W.P.No.12441 of 2012 dated 20.12.2023 and allow the above writ appeal.

For Appellants : Mr.P.Kumaresan
Additional Advocate General
Assisted by Mr.M.Alagu Goutham
Government Advocate

For Respondent : Mr.S.Duraisami
Senior Counsel
for Mr.Kandhan Duraisami



W.A.No.172 of 2025

J U D G M E N T

WEB COPY (Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra Court appeal has been directed against the order passed by the writ Court dated 20.12.2023 in W.P.No.12441 of 2012.

2. It is the case where the junior gets higher pay, whereas the senior gets lower pay, therefore, in order to step-up the pay, the respondent / writ petitioner had made an attempt before the appellant Department, having failed in his attempt as his request was negatived, he had approached the writ Court by filing the said writ petition.

3. The learned Judge who heard the matter has allowed the writ petition by giving a direction to the appellant Department to step-up the pay of the writ petitioner / respondent through the impugned order.

4. Mr.P.Kumaresan, learned Additional Advocate General appearing for the appellants assailing the order impugned would submit that, even though the respondent / writ petitioner is a senior to the other person, namely, Savithiri based on the entering date of the service and other subsequent promotions, at one point of time before the implementation of III Pay Commission since the



W.A.No.172 of 2025

writ petitioner has completed the Accounts Test, he become eligible to get the advance incentive increment and once such increment was given prior to III Pay Commission, the said increment was Rs.5/- per month.

5. However, the said Savithiri has completed the Accounts Test successfully only after implementation of III Pay Commission whereby since the increment has already been increased to Rs.15/-, when that was implemented she was able to get higher increment of Rs.15/-, where the writ petitioner got only Rs.5/- increment, that is the reason why the respondent / writ petitioner even though was senior was getting lower pay comparing with the said Savithiri for a particular period till he achieves further promotion and thereafter the pay anomaly has been set right and at the time of superannuation, the writ petitioner was drawing Rs.9,650/- pm, whereas the said Savithiri was drawing only Rs.8,300/- pm. Therefore, the order passed by the learned Judge by giving a direction to step-up the pay even for the said period i.e., between 1984 and 1987 unmindful of the fact that the advance incentive increment sanctioned to the petitioner was only Rs.5/- because of the fixation that has already been invogue prior to III Pay Commission, is erroneous approach of the writ Court, therefore, the learned Additional Advocate General seeks indulgence of this Court to interfere with the order passed by the writ Court.

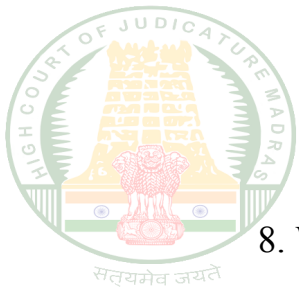


W.A.No.172 of 2025

WEB COPY

6. We have heard Mr.S.Duraisami, learned Senior Counsel appearing for the respondent / writ petitioner who pointed out that, till 01.07.1983, there has been no dispute as the writ petitioner was drawing Rs.510/- as salary, whereas the said individual Savithiri was drawing Rs.495/-.

7. Suddenly because of the increment which was given to the said Savithiri after the implementation of III Pay Commission recommendation and accordingly by sanctioning the advance incentive increment to the said Savithiri for having passed the Accounts Test, her salary has been stepped up about Rs.550/- pm, whereas the writ petitioner salary was fixed only at Rs.530/- pm. Therefore, from 01.07.1984 till 01.07.1987, the writ petitioner was drawing the lower salary, whereas the said individual Savithiri admittedly being the junior of the writ petitioner was drawing higher salary. This anomaly should have been set right by the appellant Department since they have failed, therefore, the petitioner had approached the writ Court and the writ Court has also considered all these factual matrix has allowed the writ petition, therefore, the order impugned dated 20.12.2023 does not warrant any interference at the hands of the Division Bench, he contended.

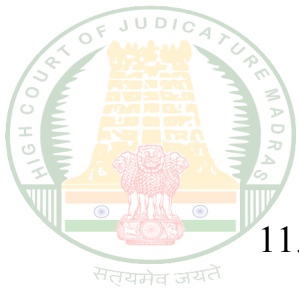


W.A.No.172 of 2025

8. We have considered the rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

9. It is an admitted fact that the respondent / writ petitioner is senior to the said individual Savithiri and he was drawing higher pay till 01.07.1983, however, from 01.07.1984, the salary of the third party, i.e., Savithiri being the junior of the writ petitioner has been stepped up to Rs.550/- per month, whereas the salary of the writ petitioner was fixed at Rs.530/-. This position continues between them as on 01.10.1984, the petitioner draws Rs.915/-, the said Savithiri draws Rs.950/-. Like that, the petitioner reaches Rs.950/- on 01.07.1985, whereas, the said Savithiri has got Rs.985/-. Like that, on 01.07.1986, the petitioner reaches Rs.985/- and the said Savithiri reaches Rs.1020/-. Finally on 01.07.1987, the petitioner reaches Rs.1020/-, whereas the said third party, i.e., Savithiri reaches Rs.1055/-.

10. However this position has been modified with effect from 01.06.1988 and from 01.07.1988, the pay of the writ petitioner was fixed at Rs.1,380/-, whereas the pay of the third party, i.e., Savithiri was about Rs.1090/- only.



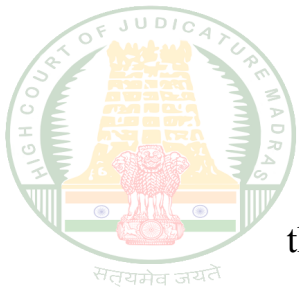
W.A.No.172 of 2025

11. This position continues thereafter also, at the time of retirement on superannuation of the writ petitioner he was drawing Rs.9650/-, whereas the said Savithiri was drawing at the time was only Rs.8,300/-, therefore except the period between 01.07.1984 and 01.07.1987, the petitioner cannot have any grievance to make a claim that the junior was getting higher pay than him.

12. Therefore, if these period is covered and the pay for the writ petitioner between 01.07.1984 and 01.07.1987 is stepped up on par with his junior, i.e., namely Savithiri, then the grievance of the writ petitioner would be redressed. To that aspect, the direction given by the learned Judge through the impugned order cannot be found fault with.

13. Resultantly, we pass the following orders in this writ appeal:

(i) that there shall be a direction to the appellant Department to step-up the pay of the respondent / writ petitioner from 01.07.1984 till 01.07.1987 on par with the junior, i.e., one Savithiri whose salary had been compared by the petitioner as well as the respondents in the counter affidavit filed before the writ Court and based on which, the equal salary should be re-fixed to the respondent / writ petitioner, based on which, his arrears of salary as well as the corresponding pensionary benefits if there is any change to



WEB COPY



W.A.No.172 of 2025

that effect also be calculated and be paid to the respondent / writ petitioner by the appellant Department within a period of three months from the date of receipt of a copy of this order.

(ii) In view of this order, there could be no further coercive action for the period of three months.

14. With the above directions, this Writ Appeal is disposed of. However there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (C.S.N., J.)

22.01.2025

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji



WEB COPY



W.A.No.172 of 2025

**R.SURESH KUMAR, J.
and
C.SARAVANAN, J.**

vji

**W.A.No.172 of 2025
and
C.M.P.No.1250 of 2025**

22.01.2025