



W.A(MD)No.1091 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A(MD)No.1091 of 2020
and
C.M.P(MD)No.5928 of 2020**

1.The Chief Conservator of Forest,
Director of Sericulture,
Folks Compound,
Anaaimedu,
Salem – 636 001.

... 1st Appellant /
1st Respondent

2.The Assistant Director of Sericulture,
Palani Road,
Meenakshi Naickenpatti Post,
Dindigul – 1.

... 2nd Appellant /
2nd Respondent

Vs.

K.Paulraj

... Respondent /
Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 19.12.2019 made in W.P(MD)No.4994 of 2012 passed by the learned Judge of this Court.



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For Appellants : Mr.A.Kannan
Additional Government Pleader

For Respondent : No Appearance

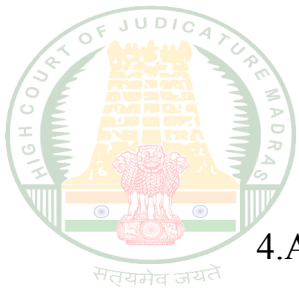
JUDGMENT

(By G.R.SWAMINATHAN, J.)

Heard the learned Additional Government Pleader appearing for the appellants. Though the respondent has been served and his name is printed in the cause list, he has not chosen to enter appearance either in person or through counsel.

2.The department has filed this appeal against the order dated 19.12.2019 made in W.P(MD)No.4994 of 2012 filed by the respondent herein.

3.The respondent was appointed as sericulture operator on 05.10.1979. The said post was subsequently redesignated as sericulture demonstrator. On 01.10.1984, the post of sericulture demonstrator was merged with the post of Junior Inspector of sericulture. The writ petitioner was conferred selection grade as well as the special grade by taking the date of merger i.e., 01.10.1984 as the base date.



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4. According to the writ petitioner, 05.10.1979, when he was originally

appointed as sericulture operator, should have been taken as the base date.

After retiring from service, the writ petitioner approached the first respondent and sought conferment of selection grade in the post of junior grade of sericulture by reckoning his service from 05.10.1979. His request was rejected vide order dated 15.03.2012. Challenging the same, W.P(MD)No.4994 of 2012 was filed. The writ petition was allowed by the learned single Judge in the following terms:

“4.The issue involved in this case is no more res integra, in view of the decision of the Division Bench of this Court in the case of M.Sivasankar, cited supra, wherein at paragraph Nos.5 to 7 it has been held as follows:

“5.On a reading of the said order, it is not possible to accept the contention of the learned Government Pleader that the averments in the above said batch of cases are distinct from that of the respondent's case. The only difference is that the applicants therein have joined service in the year 1961 while the present respondents have joined in the year 1979. But, the post remains the same. The respondents have joined as temporary Sericulture Operatives which was subsequently merged and called as Sericulture Demonstrators from the year 1981 by G.O.Ms.No. 603, dated 08.03.1989. Subsequently, Sericulture Demonstrators post itself has been merged with the Junior Inspector of Sericulture now called as Junior Inspector of Sericulture.



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6.It is well settled that once similarly placed persons as that of the respondents have been given a relief, the respondents are also entitled to get such benefits.

7. In that view of the matter, we see no reason to interfere with the order of the learned Single Judge. The Writ Appeal fails and the same is dismissed.”

5. The learned Single Judge in the case of R.Mohanram, after referring to the decision of the Division Bench in the case of M.Sivasankar cited supra and various other decisions, held that similarly placed persons are bound to be treated equally without discrimination and benefit should be extended to them also.

6. Following the same, the impugned order passed by the first respondent is set aside and the respondents are directed to grant Selection Grade in the pay scale of Junior Inspector of Sericulture to the petitioner taking his total services from the date of his initial appointment ie., from 05.10.1979 and to pay consequential service and monetary benefits, within a period of 12 weeks from the date of receipt of a copy of this order.”

Aggrieved by the same, this writ appeal has been filed by the department.

5.At the very outset, we may note that the case projected before the learned single Judge suffered from a factual error. The writ petitioner had contended that the post of sericulture demonstrator was merged with the post of



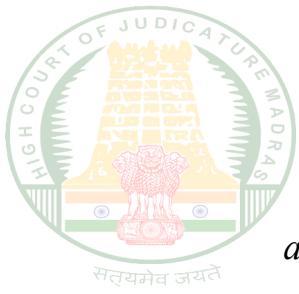
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junior inspector of sericulture which also carried the same scale of pay. From

the averments set out in the counter affidavit, it appears to be a wrong statement. The department has pointed out in the counter affidavit that the writ petitioner was working with effect from 05.10.1979 as sericulture operator in the time scale of pay of Rs.265-425 and the sericulture demonstrator in the time scale of pay of Rs.280-450 and Rs.505-845. When this post was merged with junior inspector of sericulture, it carried a scale of pay of Rs.610-1075 with effect from 01.10.1984. Thus the writ petitioner was working in two different time scales in two different categories before merger on 01.10.1984.

6.That apart, the issue had already been decided by the Hon'ble Division Bench vide order dated 27.08.2019 in ***W.A.No.2782 of 2012 etc batch (State of Tamil Nadu & another Vs M.Anjappa)***. The Hon'ble Division Bench had elaborately considered the entire issue arising out of the aforesaid merger and held that the service put in by the writ petitioner as sericulture operator cannot be reckoned for the purpose of conferring selection grade or special grade. Paragraph 10.3 of the said order reads as follows:

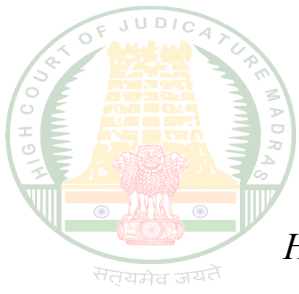
“10.3. In the case on hand, the respondents joined the services of the appellants as Sericulture Operatives. The post of Sericulture Demonstrator at the relevant point of time was a promotional one and therefore, the posts of 'Operative' was



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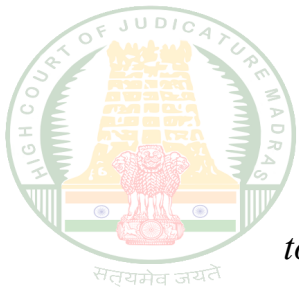
a feeder category. What was done by the Government Order in G.O.Ms.No.603, Industries Department, dated 08.05.1981 was a merger by way of promotion. It was accordingly done by removing the post of 'Operative'. Therefore, the erstwhile 'Operatives' jumped into the next category of 'Sericulture Demonstrator'. This was done by also taking into consideration the stagnation of promotional opportunities to the Sericulture Demonstrators. Therefore, but for the merger, it would have been difficult for an 'Operative' to be promoted as 'Sericulture Demonstrator'. This decision was made on 08.05.1981 and given effect immediately. At that point of time, none of the respondents were working for 10 years or 20 years, as the case may be, entitling them to the Selection or Special Grade. As stated, they were only working for two years in the post of 'Operative' and without any murmur, they accepted the merger. Thereafter, further merger has taken place in G.O.Ms.No.310 Handlooms, Textiles & Khadi (G1) Department dated 07.11.1987. In the said Government Order itself, the earlier order of the Finance(Pay Cell) Department passed in G.O.Ms.No.694 dated 11.08.1986 has been referred. Thus, we have no difficulty in holding that the order passed by the Finance (Pay Cell) Department in G.O.Ms.No.694, dated 11.08.1986 is in tune with the decision taken earlier by the appellants to merge the posts of 'Sericulture Demonstrator' with that of Junior Inspector of Sericulture. Ultimately, the order was passed in G.O.Ms.No.310,



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Handlooms, Textiles & Khadi (G1) Department dated 07.11.1987. That is the reason why, the revised scale of pay was ordered with notional effect from 01.10.1984 with monetary benefit from 01.04.1986. From the above, we have no difficulty in holding that both the mergers were with the promotional posts as per the Government Order passed by the Department of Personnel and Administrative Reforms (Services) Department dated 23.09.1983. Clause 7 as we noted earlier would clearly dis-entitles the respondents from counting their services rendered in the feeder category of Operative and thereafter, Demonstrator. We may note, the very object behind it granting selection grade or special grade is only to give more benefit and relief to such of those persons, who are languishing in the feeder category without any minimum chance of promotion. Therefore, if a person is serving in the said post without any promotion for 10 or 20 years, as the case may be, only he will be entitled for selection or special grade. The respondents have filed the writ petitions in the year 2012 seeking to interpret the Government Orders passed in G.O.Ms.Nos.603, Industries Department, 08.05.1982, G.O.Ms.No.694, Finance(PayCell) Department, 11.08.1986, and G.O.Ms.No.310, Handlooms, Textiles & Khadi (G1) Department dated 07.11.1987. We are of the view, certainly, the respondents are not entitled to any relief in the light of the discussion made. They chose to knock the doors of the Court after getting the benefits. But for the orders referred

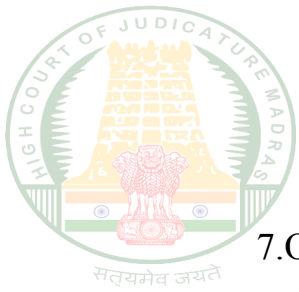


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to above, they would not be working as Junior Inspector of Sericulture at the time of filing the writ petitions. The Government Order passed in G.O.Ms.No. 694, Finance(Pay Cell) Department, dated 11.08.1986 is by the Finance Department and not by the appellants. The said order also was passed keeping in mind the order of merger, which followed it. There was a clear indication about the merger. It was accordingly, referred to in G.O.Ms.No.310, Handlooms, Textiles & Khadi (G1) Department dated 07.11.1987. The aforesaid order also clearly says that the post of 'Sericulture Demonstrator' to be merged with the post of Junior Inspector of Sericulture. Thus, we have no hesitation in holding that the orders passed by the learned single Judges cannot be sustained in the eye of law. The Division Bench of this Court, on an earlier occasion, mainly proceeded to hold that inasmuch as the earlier orders were given effect to, the same will have to be followed. Thus, there was no discussion on merit. Hence, we are of the view that the orders passed are required to be interfered with."

Though the order of the Hon'ble Division Bench was pronounced on 27.08.2019 itself, it appears that it was not brought to the notice of the learned single Judge when W.P(MD)No.4994 of 2002 was disposed of on 19.12.2019.



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7.Of course, the Hon'ble Division Bench in the earlier case had taken an indulgent view in the matter of fixation of pension. It was felt that while one set of employees who got orders from the High Court were getting higher pension by including the service in the erstwhile category, some of them have been left out. On this ground, the following direction was passed :

“11.Accordingly, the orders passed by the learned single Judges are set aside and the writ appeals are allowed in the following manner.

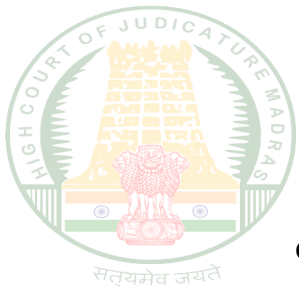
(i) The appellants are directed to revise the pension being received by the respondents applying the same yardstick followed in the case of similarly placed persons, who got favourable orders;

(ii)Appropriate orders will have to be passed within 12 weeks from the date of receipt of a copy of this order.

(iii)The respondents are entitled for revised pension only prospectively i.e., from the date of the orders passed by the appellants.”

8.We respectfully differ. There is no question of invoking the principle of equality in such matters. The Full Bench of this Court vide order dated 05.03.2021 (The State and Ors. vs. S. Rajaram and Ors. WA(MD)No.201 of 2021) in which one of us (GRSJ) was a party had held as follows:

“19.It is well settled that Article 14 of the Constitution of India cannot be invoked for perpetuating illegality. A wrong order passed in one case cannot be made the basis for compelling a public authority to pass similar order in any other case. Even if the State implements an erroneous order passed by the Court, it



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cannot be precluded from challenging a similar order passed in another case, simply because appeal was not preferred in the earlier case (Paragraph No.17 in State of Madhya Pradesh Vs. Ramesh Chandra Bajpai, reported in (2009) 13 SCC 635).”

9.In this view of the matter, we decline to issue the direction as given in paragraph 11 by the earlier Division Bench. The order passed by the learned single Judge is set aside.

10.This Writ Appeal is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [K.R.S., J.]
12.08.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA/SKM

To

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