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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2025

CORAM

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

W.A(MD)No.1871 of 2025

Julius Jawahar Devakandan ... Appellant / Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Department of Highways and Minor Ports,
Fort St.George,
Chennai – 600 001.

2.The Director General,
Highways Department,
Guindy, Chennai – 5.

3.The Director,
Highways Research Station,
Highways Department,
Guindy, Chennai.

4.The Divisional Engineer,
Highways,
Quality Control Division,
Madurai – 625 002.

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5.The Superintending Engineer,
(Highways),
Madurai. ... Respondents / Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to allow the Writ Appeal and set aside the order dated 22.04.2025 passed by the learned single Judge in W.P(MD)No.7019 of 2019 on the file of this Court.

For Appellant : Mr.J.Lawrence

For Respondents : Mr.N.Satheesh Kumar
Additional Public Prosecutor

JUDGMENT

(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The appellant was appointed as Welder Grade - I in the Central Workshop (Mechanical Wing) of the Highways Department on 28.03.1990. The said wing was disbanded in the year 2003 and the posts were surrendered. In order to ensure that the appellant's services were not affected, he was absorbed as a record clerk in the very same department. During the relevant time, the appellant was received a sum of Rs.5000/- in the scale of pay of Rs. 4300-100-6000. However, the highest basic pay for a selection grade record

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clerk was only Rs.4590/-. This difference in pay of Rs.410/- was granted as personal pay so that the appellant's total pay received till then was maintained without any reduction.

3.The grievance of the appellant is that when there was subsequent revision, the amount of Rs.410/- received by him as personal pay was not taken into account. This was put to challenge in W.P(MD)No.7019 of 2019. The learned single Judge vide order dated 22.04.2025 dismissed the writ petition. Aggrieved by the same, this Writ Appeal has been filed.

4.The learned counsel for the appellant reiterated all the contentions set out in the grounds of appeal. He placed reliance on FR9 as well as FR22 to contend that since in this case the personal pay was not accorded on account of any special qualification, it also has to be taken into account.

5.No doubt, the contentions of the appellant do appear to have considerable force. But we cannot lose sight of one basic fact. The issue raised by the appellant was settled by the Government by passing G.O(Ms)No.5 Highways and Minor Ports (H.M.2) Department dated 13.01.2011. The Writ Petition came to be filed a full 8 years later. That is why the learned single Judge dismissed the Writ Petition in the following terms:

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"9.It is relevant to refer that some of the employees were approached this Court by way of batch cases in W.P.Nos. 17445 & 17446 of 2008, seeking fixation of their pay in the scale pay applicable to their original post. This Court vide order dated 02.11.2018, dismissed the said writ petitions in the following terms:- "It could be seen from the materials on records that the workshops of Highways Department, where the petitioners working were closed due to the loss sustained by the Government. Only on sympathetic view taken by the Government on the persons employed in the workshops, a decision was taken to grant Voluntary Retirement Scheme to its employees who were willing to accept and other persons were given an option of redeployment in various other Department as per their educational qualification. The last and final option was also for retrenching the employees if there was no suitable post available to accommodate them. In today's scenario in the country regarding getting an employment itself is a big issue that to in Government service, the petitioners have been redeployed instead of retrenchment which has to be accepted in a positive way and the petitioners cannot seek more benefits in the said redeployment. The petitioners have been redeployed and their pay has been protected instead of returning".

10.It is pertinent to mention that the Rules were relaxed for availing pay protection for redeployed employees and the same is evident from the order impugned, wherein, it has been

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stated that the said difference would be adjusted by way of personal pay. Having accepted the same, the petitioner has approached this Court, that too, after a lapse of 8 years, which is inordinate delay without any plausible explanation on the part of the writ petitioner.

11.This Court is of the firm view that the petitioner's interest has been protected by redeployment by the respondents and the petitioner cannot seek more pay comparing himself with others. Despite petitioner's redeployment, no recovery has been made and the same is confirmed by the learned Additional Government Pleader on instructions. Therefore, it is clear that the pay of the petitioner is duly protected till his retirement. There is no merit in this writ petition and there is no reason to interfere with the order impugned. This writ petition is liable to be dismissed."

6.The learned counsel for the appellant submitted that the doctrine of laches ought not to be invoked in this case.

7.We are not able to agree. The reasons given by the learned single Judge are sound and there is no reason to interfere the same. When things had attained finality, they should be allowed to rest. The aggrieved employee cannot be allowed to re-agitate matters after a lapse of 8 years.

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8.This Writ Appeal stands dismissed. There shall be no order as to costs.

[G.R.S., J.] [K.R.S., J.]
11.07.2025

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

To

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