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**(2013) 10 MAD CK 0162**

**In the Madras High Court**

**Case No : Writ Petition No. 18039 of 2011**

Dr. C. Athimuthu and Others

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

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**Date of Decision : 29-10-2013**

**Acts Referred:**

**Citation : (2013) 10 MAD CK 0162**

**Hon'ble Judges : A. Arumughaswamy, J**

**Bench : Single Bench**

**Advocate : A. Jenasenan, for the Appellant; R.M. Muthukumar, G.A., for the Respondent**

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## **Judgement**

A. Arumughaswamy, J.—The petitioners have come forward with this writ petition to issue a writ in the nature of Mandamus to directing the Respondents herein to direct the respective District Collectors and Commissioner of Panchayat Unions to fix and pay the salary to the Petitioners from 1.6.2009 in the Pay band/scale as commensurate to the length of service rendered by the Petitioners with all other attendant benefits and as per the G.O.Ms. No. 234 dated 1.6.2009 and G.O.Ms. No. 354 dated 23.10.2009 issued by the Government. The petitioners herein are Medical Officers appointed in Panchayat Union Dispensaries across the State of Tamil Nadu. The Panchayat Union Dispensaries are functioning under the control of the Commissioner of Rural Development, i.e., the second Respondent herein. During 1989-1990, the Government took a policy decision to upgrade such Panchayat Union Dispensaries as Primary Health Centres pursuant to which they will come under the control of the Director of Primary Health Centres. Under this policy, about 84 Panchayat Union Dispensaries were converted into Primary Health Centres. However, about 25 Panchayat Union Dispensaries still continue to be in existence, in which the petitioners herein are working as Medical Officers. All the petitioners possess M.B.B.S. degrees and have served as Medical Officers for several years ranging from 10 to more than 25 years. The salary of the Petitioners is paid out of the funds of the respective Panchayat Union. The

Medical Officers working in Panchayat Union Dispensaries have been holding their permanent post on a regular basis and are to be considered as performing duties similar to the duties being performed by other Government Doctors. As per paragraph 16 of the 6th Pay Commission G.O.Ms. No. 234 dated 01.06.2009, the revised scales of pay will also be applicable to employees of local bodies including employees of Town Panchayats governed by the Tamil Nadu Panchayats Act, 1994. A representation was submitted by the Tamil Nadu Government Doctor's Association (TNGDA) requesting the Government to provide Dynamic Assured Career Progression (DACP) to government doctors due to lack of adequate promotional opportunities. After considering the representation of the Association and the recommendations of a Commission set up for this purpose, the Government passed orders in G.O.Ms. No. 354 dated 23.10.2009 fixing the eligibility for time bound promotion along with pay hike for doctors working under the Director of Medical and Rural Health Services, Director of Public Health and Preventive Medicine and Director of Medical education. Several representations were sent by the petitioners and other rural medical officers similarly placed to the second Respondent herein, or to the Commissioner of their respective Panchayat Union seeking implementation of G.O.Ms. No. 234 dated 1.6.2009 along the lines of promotion scheme implemented for government and municipal doctors. Some of the petitioners are due to retire soon upon attaining the age of superannuation. All the petitioners herein have put in a number of years of diligent and exemplary service, serving the needs of the poorest of the poor. Hence, the petitioners have come forward with the present writ petition.

2. I have heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the Respondents.

3. The contention of the learned counsel appearing for the petitioners is that the petitioners are working in the Panchayat Union Dispensaries functioning under the control of the Commissioner of Rural Development. Some of them are working as Medical Officer Grade II and some of them are working as Medical Officer Grade I. Previously as per G.O.Ms. No. 666 their pay has been fixed on par with the other Government doctors. As per paragraph 16 of the VI Pay Commission G.O.Ms. No. 234 dated 01.06.2009, the revised scales of pay will also be applicable to employees of local bodies including employees of Town Panchayats governed by the Tamil Nadu Panchayats Act, 1994. Even though the petitioners are entitled for revised pay scales as per paragraph 16 of the G.O.Ms. No. 234 dated 10.06.2009, that has not been implemented by some of the Panchayat Unions. However, in some of the Panchayat Unions the G.O. has been implemented and revised pay has been fixed to the doctors similarly placed to that of the petitioners. Hence he prays that the writ petition has to be allowed.

4. The learned Government Advocate appearing for the respondents contended that the petitioners are entitled to receive only the pay scale they are receiving and they are not entitled for the revised pay scales. Hence he prays that the writ

petition has to be dismissed.

5. I have carefully considered the rival submissions and also perused the materials placed on record.

6. From the perusal of the averments it is seen that the petitioners are working as Medical Officers in various Panchayat Union Dispensaries is not in dispute. It is also not in dispute that previously as per G.O.Ms. No. 666 the pay band of the petitioners has been fixed as Rs. 15,000/- on par with the other Government Medical Officers. Under such circumstances for implementation of VI Pay Commission Government Order has been passed in G.O.Ms. No. 234 Finance Department dated 01.06.2009. It paragraph 16 of the said G.O. it has been specifically stated that the Government accept the recommendations of the Official Committee for the employees of Local Bodies and the revised scales of pay of the employees of these institutions shall be as in Schedule-I of the Tamil Nadu Revised Scales of Pay Rules 2009 and in respect of the employees of Municipal Councils and Town Panchayats and in exercise of the powers conferred by Section 102 of the Tamil Nadu Panchayats Act, 1994 in respect of employees of the Panchayats dealt with under the said Act. As per the proceedings of the Commissioner of Panchayat Union, Gudalur at page No. 81 of the typed set, similarly placed person to that of the petitioners by name Dr. N. Devaraj, was working as a Medical Officer of Bitherkadu Panchayat Union Dispensary with MBBS degree and completed 20 years of service as on 10.12.2001 and his pay has been fixed in the pay band 3 at Rs. 15,600-39100 + Grade pay 6600/- with effect from 01.01.2006 as per G.O.Ms. No. 234 Finance (PC) Department dated 1.6.2009 and consequent on the issuing of G.O.Ms. No. 354 Health and Family Welfare and (2) Department dated 23.10.2009 his pay has been fixed in the pay band IV Rs. 37400-67000 + GP 8700 with effect from 23.10.2009. Therefore, I am of the view that the present writ petitioners are also entitled for the revised scale of pay on par with the similarly placed persons. However, they have been driven from pillar to post for their legitimate right from the year 2009 and after exhausting the remedies available to them they were constrained to knock the doors of this Court. Considering the above circumstances, the writ petition is allowed. The respondents are directed to fix the revised scale of pay in the light of the G.O.Ms. No. 234 Finance (PC) Department dated 1.6.2009 and the consequent G.O.Ms. No. 354 Health and Family Welfare and (B2) Department, dated 23.10.2009, within a period of six weeks from the date of receipt of copy of this order and disburse the arrears within a period of six weeks thereafter. No costs.