

(2011) 03 MAD CK 0132
In the Madras High Court
Case No : Writ Petition No. 20468 of 2007

K.J. Rajan

APPELLANT

Vs

The General Manager Chennai Metropolitan Water Supply and
Sewerage Board

RESPONDENT

Date of Decision : 09-03-2011

Acts Referred:

Citation : (2011) 03 MAD CK 0132

Hon'ble Judges : V. Dhanapalan, J

Bench : Single Bench

Advocate : A. Nagarathinam, for the Appellant; B. Shantha Kumar for
C.M.W.S.S.B., for the Respondent

Final Decision : Dismissed

Judgement

V. Dhanapalan, J.—Heard Mr. A. Nagarathinam learned Counsel appearing for the writ Petitioner and Mr. B. Shantha Kumar learned

Senior counsel appearing for the Respondent. According to the Petitioner, he was appointed as Field Man on 13.04.1975 by the Respondent

Chennai Metro Water Supply and Sewerage Board, hereinafter referred to as the C.M.W.S.S. Board, and his scale of pay was fixed at Rs. 200-

50-250-10-500 as per the Second Pay Commission recommendations. Subsequently, the scale of pay was revised as Rs. 210-10-325 to the said

posts. As per the recommendations of the One Man Commission, Petitioner made representation on 19.11.1977, but it was not considered by the

Corporation of Madras. On 21.11.1978, Petitioner's scale of pay was revised as Rs. 325-10-445-550 as per the Third Pay Commission and then

on 20.08.1985, his scale of pay was again revised as Rs. 555-15-615-20-795-25-970 as per the Fourth Pay Commission. This scale of pay

was

revised as 705-20-745-1230 as per letter dated 12.07.1985. But the scale of pay fixed by the Government of Tamil Nadu for the same post was

780-35-1385. As per the Fifth Pay Commission, Petitioner's scale of pay was revised as 825-15-900-20-1200 and the Respondent then fixed it

as 950-20-1500. As per the Sixth Pay Commission recommendations, the scale of pay of the Petitioner was fixed as 3,050-3200 by the

Respondent. But in the agricultural department the scale of pay was fixed as 4,000-100-6,000. According to the Petitioner there was similar post

of Field Man in the Agricultural Department also and both have similar nature of work. The post of Field Man had been re-designated as

Agricultural Assistant and again on 5.2.1980, the post of Agricultural Assistant was re-designated as Assistant Agricultural Officer. Therefore,

Petitioner made a representation dated 24.11.1981 requesting the Respondent re-designate as Assistant Agricultural Officer and his post was re-

designated as Assistant Agricultural Officer. Thereafter, the Respondent issued a letter dated 08.02.1999 stating the Respondent Board is

adopting the Government's pay structure in all respects.

2. Further the Petitioner claims that on completion of ten years, the pay scale of Assistant Agricultural Officer should be revised, granting Selection

Grade of pay of 5,000 - 150 -6,000 and on completion of 20 years, Special Grade of pay of 5,500 - 175 - 9,000 should be granted. Petitioner's

grievance is that though the employees of Agricultural Department are granted such benefits such as Selection Grade and Special Grade, his salary

was not revised to the scale of pay of 5500 - 175 -9000, and instead he was paid on the basis of scale of pay of Rs. 3050 - 3200. In this regard,

Petitioner has sent a representation on 17.05.2003 to the Respondent. However, Petitioner has been given a reply by letter dated 01.01.2004

stating that the Government had directed that any revision of scale shall be referred to the next pay revision / commission as and when constituted

for its consideration and hence, Petitioner's request could not be considered. Whereas the Respondent Board revised the pay scale to the

category of Electrician working in the Board by an order dated 09.02.1999 on par with the Government's pay structure. Therefore, Petitioner sent

a representation on 14.06.2004 for which the Respondent sent a reply on

01.07.2004 denying his claim. Again, Petitioner made further representations in August 2006 and on 18.01.2007 to the Ministry of Local Administration, Tamil Nadu, requesting for a direction to the

Respondent to pay the arrears of salary. But the same was denied by the Respondent on 15.03.2007 and hence, this writ petition.

3. The Respondent has filed counter affidavit. It is stated in the counter that the Petitioner was initially appointed as a field man in the Corporation

of Chennai and he joined duty on the forenoon of 13.03.1975 with the time scale of pay of Rs. 200 - 5 - 250 - 10 - 300. Subsequently, as per the

recommendations of various Pay Commissions Petitioner's pay was duly fixed. As regards the Petitioner's request for pay revision on par with the

Assistant Agricultural Officer of Agricultural Department, it is stated in the counter that the Petitioner was promoted as Assistant Agricultural

Officer by relaxing the educational qualifications and his pay scale was fixed in the scale of pay Rs. 610-20-730-25-955-30-1075. As per the

Special Regulations of the CMWSSB Board irrespective of the corresponding scale of pay of Rs. 705/- in Agricultural Department because the

duties and responsibilities of the post of the Assistant Agricultural Office in the Board are entirely different. The corresponding pay revisions were

made for the post of Assistant Agricultural Officer as per the recommendations of the IV, V. and VI Pay Commissions. Petitioner retired from the

service on 30.06.2004 on attaining the age of superannuation. However, Petitioner again made a representation on 06.03.2006 after two years

and he was informed that the Government had directed that any revision of pay scale shall be referred to the next Pay Commission / Revision /

Committees, as and when it is constituted, for its consideration. However, when the Petitioner submitted a representation on 13.01.2007 for the

same relief, it was rejected on the same lines on 15.03.2007, against which the Petitioner has come forward with this writ petition.

4. It is the stand of the Respondent in the counter affidavit that the Petitioner, being an employee of the Respondent Board, cannot take into

consideration the scale of the pay of employees in the Agricultural Department of the Government of Tamil Nadu. Both are entirely different and

the G.O. Ms. No: 1443, Finance (Salaries) Department dated 17.11.1973 is applicable only to Agricultural Department employees and not the

C.M.W.S.S. Board employees. According to the Respondent, Petitioner was given promotion to the post of Assistant Agricultural Officer by relaxing the prescribed qualification and not by re-designating his post as stated by the Petitioner in the affidavit and thus, in the Board the scales of pay was fixed by the Special Regulations of C.M.W.S.S. Board. It is also the stand of the Respondent that the revision of pay effected by the Government in the Agricultural Department cannot be implemented in C.M.W.S.S. Board because the duties and responsibilities are entirely different and both cannot be compared.

5. As regards the contentions raised by the Petitioner regarding grant of selection grade and special grade of pay to him, the Respondent had stated that the scale of pay of Petitioner was also revised to Rs. 4000 -100-6000 after completion of 10 years of service and he was not granted special grade because Petitioner had retired from service on 30.06.2004 without completing 20 years of service in the said post. As to the reference made by the Petitioner regarding one Mr. S. Nagarajan and one Mr. R. Kuppusamy, it is submitted that such comparison is untenable as both those personnel are working in the Agricultural Department in Tamil Nadu Government and they are not employees of the C.M.W.S.S.

Board. Regarding the claim of the Petitioner for payment of arrears of salary, it is submitted by the Respondent that the pay scales fixed and given to the Petitioner were as per the norms of C.M.W.S.S. Board and hence, there is no question of payment of arrears of salary.

6. Further, it is specifically stated in paragraph 10 of the counter affidavit that the Petitioner had already filed a writ petition in W.P. No: 4783 of 1999 before this Court in which the Petitioner had alleged in para 20 that, I state that the Second Respondent had done all these things with a malafide intention and to punish me without any reasons and on framing fake charges as I had filed W.P. No: 4331 of 1993 asking pay allowance on par with other Assistant Agricultural Officers working under the Tamil Nadu Government"". In this regard it is pertinent to point out that the above noted W.P. No: 4331 of 1993 was dismissed on 16.03.2000 itself, and hence for the same cause of action the Petitioner has no legally enforceable right to claim the very same relief as the said plea would be barred by the principle of Resjudicata.

7. The foremost contention of the learned Counsel for the Petitioner is that the Petitioner was promoted as Assistant Agricultural Officer on 09.06.1989 from the cadre of Field Man by relaxing the educational qualification and therefore, his pay has to be fixed in the light of the Board proceedings dated 08.02.1999 in B.P. No: 05/99 [Personnel and Administration (SR) Department] on par with the employees of the Government of Tamil Nadu. On the other hand, the learned Counsel for the Respondent would contend that the concerned personnel Thiru.M.S. Iqbal, with whom the Petitioner seek to compare himself, was promoted as Assistant Agricultural Officer on 02.02.1982 based on his educational qualifications and at that time since the Petitioner was only working as Field Man, he was not considered for promotion as Assistant Agricultural Officer. It is also brought to the notice of this Court by the Respondent that the said Mr. M.S. Iqbal is superior in cadre to the cadre to which the Petitioner belongs and hence, Petitioner cannot claim pay on parity with the said Mr. M.S. Iqbal. Learned Counsel appearing for the Board also brought to the notice of this Court the fact that the earlier writ petition filed by this Petitioner in W.P. No: 4331 of 1993 was dismissed as early as on 16.03.2000.

8. I have heard the learned Counsel on either side and perused the material documents enclosed with the typed set of papers and also analysed the relevant regulations of the Respondent Board. It is not in dispute that the Petitioner was appointed as Field Man on 13.04.1975 and he was redesignated as Assistant Agricultural Officer on 09.06.1989 and he claim benefits on par with the Assistant Agricultural Officer working in the Agricultural Department in the Government of Tamil Nadu. Since the Petitioner's continuous requests by various representations to revise his scale of pay were rejected by the Respondent Board, earlier the Petitioner filed W.P. No: 4331 of 1993 and the same was dismissed by this Court. Thereafter, again the Petitioner represented to the Respondent that his pay must be fixed on par with one Mr. M.S. Iqbal. By the impugned proceedings dated 15.03.2007, the Respondent Board had once again rejected the claim of the Petitioner. The issue and question raised by the Petitioner in this writ petition to assail the impugned order is that his pay must be fixed on par with the pay scale of Mr. M.S. Iqbal. This claim is

rejected by the Respondent by stating that Mr. M.S. Iqbal was promoted as Assistant Agricultural Officer on 02.02.1982 based on his

educational qualifications and at that time Petitioner was working only as a Field Man and since he did not possess the required qualification for the

post of Assistant Agricultural Officer, his case was not considered for promotion. The said Mr. M.S. Iqbal was promoted as Farm Manager on

08.07.1983. It is also categorically stated in the impugned proceedings that Mr. M.S. Iqbal is superior in cadre to that of the Petitioner and hence

the request of the Petitioner to claim pay parity with Mr. M.S. Iqbal is not feasible for compliance. It is seen from the materials made available on

record that Petitioner was promoted to the post of Assistant Agricultural Officer on 09.06.1989 only and hence, the decision of the Respondent in

rejecting the claim of the Petitioner to revise his pay from an earlier date is as per the rulings of this Court as well as the rules and regulations which

governs the employees of the Respondent C.M.W.S.S. Board. Such decision, in my considered opinion, cannot be faulted with.

9. In the result, in view of the earlier order passed by this Court on 16.03.2000 in W.P. No: 4331 of 1993, the claim of the Petitioner cannot be

entertained. The writ petition deserves no merits and it is accordingly dismissed. Consequently, connected miscellaneous petition is closed. Though

the Petitioner has suppressed material information namely, about the earlier order passed by this Court in his pleadings, since he has included a

document at page 30 in the typed set of papers in which the order passed by this Court is disclosed, I am not inclined to award any costs.