
(2009) 01 MAD CK 0068

In the Madras High Court

Case No : Writ Appeal No. 1261 of 2008 and M.P. No. 1 of 2008

The Chief Engineer, Department of Agriculture Engineering
and The Assistant Executive Engineer, Agriculture Engineering

APPELLANT

Vs

L. Ramachandran and Others

RESPONDENT

Date of Decision : 05-01-2009

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2009) 01 MAD CK 0068

Hon'ble Judges : S.J. Mukhopadhaya, Acting C.J.;V. Dhanapalan, J

Bench : Division Bench

Advocate : Raja Kalifulla, Govt. Pleader, for the Appellant;

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, A.C.J.

1. This Writ Appeal has been preferred by the State against the order dated 28.1.2008 passed by the learned single Judge in W.P. No. 20395 of 2006 (O.A. No. 2794 of 1995 since transferred to this Court).

By the said order, the learned single Judge allowed the Writ Petition (Original Application) preferred by the respondents-writ petitioners and

directed the appellants-State to continue to pay the Personal Pay of 5% of Basic Pay to the respondents-writ petitioners in accordance with

G.O.Ms. No. 664, dated 24.8.1992, issued from Finance (Pay Cell) Department.

2. The respondents-writ petitioners were functioning as Fitter Grade-I, Machinist Grade-I and Welder Grade-I, respectively, in the Office of the

Assistant Executive Engineer, Agriculture Engineering, Tractor Workshop, Tirunelveli. All of them had put in more than ten years of service in their

respective cadres in which they were initially appointed. Consequently, they were given Selection Grade in the respective categories. After the Fifth

Pay Commission, the Government issued G.O.Ms. No. 664, dated 24.8.1992, issued from Finance (Pay Cell) Department, and allowed 5% of

Basic Pay computed as on 1.8.1992 as Personal Pay, to the following categories of employees:

(i) All categories of staff in the pre-revised scales of pay at Rs. 475-775 moving over to the revised scales of pay of Rs. 775-1030.

(ii) All categories of staff in the pre-revised scale of pay of Rs. 610-1075 moving over to the revised scale of pay of Rs. 950-1500 or Rs. 975-1660.

(iii) All categories of staff in the pre-revised scale of pay of Rs. 705-1230 moving over to the revised scale of pay of Rs. 1200-2040, and

(iv) All categories of staff in the pre-revised scale of pay of Rs. 905-1545 moving over to the revised scale of pay of Rs. 1600-2660.

3. It appears that the respondents-writ petitioners claimed that they were in the time scale of pay of Rs. 610-1075 and therefore, were to move

over to the scale of pay of Rs. 950-1660. Subsequently, on completion of ten years, their Selection Grade was fixed in the scale of pay of Rs.

1200-2040. As per the Government Order as quoted above, those who were in the scale of pay of Rs. 610-1075 and moved over to Rs. 950-

1660, were eligible for the benefit of 5% of the Basic Pay. On that basis, initially, orders were passed granting the benefit of 5% of Basic Pay to

the respondents-writ petitioners, but subsequently, the same was cancelled by the order passed by the second appellant-Assistant Executive

Engineer, Agriculture Engineering, Tractor Workshop, Tirunelveli-7, dated 23.4.1995, giving rise to the filing of the Original Application before the

Tamil Nadu Administrative Tribunal, Chennai, and the case was subsequently transferred to this Court and decided by the learned single Judge by

the impugned order dated 28.1.2008 in Writ Petition No. 20395 of 2006 (Original Application No. 2794 of 1995).

4. The stand taken by the appellants-State is that the pre-revised scale of the respondents-writ petitioners was Rs. 555-970 and not Rs. 610-

1075. The learned single Judge having noticed the rival contentions, allowed the Writ Petition, as according to the learned single Judge, if the

benefit would not have been granted in favour of the writ petitioners, it would have amounted to violation of Article 14 of the Constitution of India.

5. Having heard the learned Government Pleader appearing for the appellants-State, while we are not deliberating on the disputed question of fact

as to in which pre-revised scale of pay the respondents-writ petitioners were working, particular, in view of the Enclosure (along with the order

dated 23.4.1995) filed and signed by the second appellant-Assistant Executive Engineer, Tirunelveli, which shows that they were in the time scale

of pay of Rs. 610-1075, even for the sake of argument, if we accept that they were in the unrevised scale of Rs. 555-970, if the benefit of 5% of

the Basic Pay as Personal Pay is not allowed to them, we are of the view that the same would have amounted to violation of Article 14 of the

Constitution of India. It cannot be presumed that all the categories of staff in the pre-revised scale of pay of Rs. 475-775; all categories of staff in

the pre-revised scale of pay of Rs. 610-1075; all categories of staff in the pre-revised scale of pay of Rs. 705-1230 and all the categories of staff

in the pre-revised scale of pay of Rs. 905-1545, on moving over to their respective revised scales of pay, will be granted 5% of the Basic Pay

computed as on 1.8.1992 and those who are in the intermediary scale of pay of Rs. 555-970, i.e. above pre-revised scale of pay of Rs. 475-775

and below the pre-revised scale of pay of Rs. 610-1075, if moved to the higher scale of pay, would not be entitled to get such 5% of Basic Pay

computed as on 1.8.1992. If the Government decides that they are not entitled to get that 5% Basic Pay, for they are above the pre-revised scale

of Rs. 475-775 and below the pre-revised scale of pay of Rs. 610-1075, that would have amounted to violation of Article 14 of the Constitution

of India.

6. In the aforesaid background, and for the reasons mentioned by the learned single Judge, we are not inclined to interfere with the impugned

order. There being no merits, the Writ Appeal is dismissed. No costs. The Miscellaneous Petition is closed.