

Sadanandan Vs. State of Kerala

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Court : Kerala

Decided On : Mar-18-2015

Judge : Honourable Mr. Justice a.V.Ramakrishna Pillai

Appellant : Sadanandan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI WEDNESDAY, THE 18TH DAY OF MARCH 2015 27TH PHALGUNA, 1936 WP(C).No. 5707 of 2013
(R) ----- PETITIONER(S) : -----
T.K.SADANANDAN, AGED 56 YEARS, S/O.KORAN, THIRUTHIPURATH HOUSE, POOPATHY, POYYA VILLAGE, THRISSUR DISTRICT, (RETIRED DISTRICT COURT SHERISTADAR). BY SRI.RENJITH THAMPAN (SENIOR ADVOCATE) ADV. SMT.P.R.REENA RESPONDENT(S) : ----- 1. STATE OF KERALA, REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT, DEPARTMENT HOME, SECRETARIAT, THIRUVANANTHAPURAM, PIN- 695 001.

2. PRINCIPAL SECRETARY TO GOVERNMENT, DEPARTMENT OF FINANCE (ANOMALY RECTIFICATION CELL-B), SECRETARIAT, THIRUVANANTHAPURAM, PIN- 695 001.

3. HIGH COURT OF KERALA, ERNAKULAM, PIN- 682 031. REPRESENTED BY REGISTRAR(SUBORDINATE ORDINATE JUDICIARY).

4. ACCOUNTANT GENERAL (AE), THIRUVANANTHAPURAM, PIN- 695 001. R1,R2 & R4 BY GOVERNMENT PLEADER SRI.NOUSHAD THOTTATHIL R3 BY ADV. SRI.ELVIN PETER P.J.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 5707 of 2013 (R) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- EXT.P1: TRUE COPY OF CHAPTER 12 OF SHETTY COMMISSION REPORT. EXT.P1(A): TRUE COPY OF THE RELEVANT PORTION OF THE SHETTY COMMISSION REPORT REGARDING STATE OF KERALA. EXT.P2: TRUE COPY OF THE

ORDER

OF THE SUPREME COURT IN I.A NO.135-136 IN W.P.(C).NO.1022/1989. EXT.P3: TRUE COPY OF THE

ORDER

DATED 07/10/2009 OF THE HON'BLE SUPREME COURT. EXT.P4: TRUE COPY OF THE LETTER DATED 10/03/2010 OF THE REGISTRAR, HIGH COURT OF KERALA. EXT.P5: TRUE COPY OF THE RELEVANT PORTION OF THE RECOMMENDATION OF 9th PAY COMMISSION. EXT.P6: TRUE COPY OF THE GOVERNMENT

ORDER

DATED 26/02/2011 OF FINANCE (PRC-C) DEPARTMENT, G.O.(P)NO.85/2011/FIN. EXT.P6(A): TRUE COPY OF THE GOVERNMENT

ORDER

DATED 30/03/2011 OF FINANCE (PRC-C) DEPARTMENT, G.O.(P)NO.143/2011/FIN. EXT.P7: TRUE COPY OF THE GOVERNMENT

ORDER

DATED 25/06/2012 OF THE FINANCE (ANOMALY RECTIFICATION CELL-B) DEPARTMENT G.O.(MS)NO.352/2012/(97)/FIN. EXT.P8: TRUE COPY OF THE GOVERNMENT

ORDER

DATED 22/05/2012 OF THE FINANCE (ANOMALY RECTIFICATION CELL-B) DEPARTMENT, G.O.(MS)NO.294/2012/(80)/FIN. EXT.P8(A): TRUE COPY OF THE GOVERNMENT

ORDER

DATED 19/07/2012 OF THE FINANCE (ANOMALY RECTIFICATION CELL-B) DEPARTMENT, G.O.(MS)NO.406/2012/(104)/FIN. EXT.P8(B): TRUE COPY OF THE GOVERNMENT

ORDER

DATED 29/03/2012 OF THE FINANCE (ANOMALY RECTIFICATION CELL-B) DEPARTMENT, G.O.(P)NO.193/2012/(60)/FIN. EXT.P9: TRUE COPY OF THE GOVERNMENT

ORDER

1901/2013 OF HOME (L) DEPARTMENT, G.O(RT)NO.153/13/HOME. EXT.P10: TRUE COPY OF THE INTIMATION OF THE ACCOUNTANT GENERAL (AE) KERALA DATED 17/10/2012. WP(C).No. 5707 of 2013 (R) ----- EXHIBIT P11: TRUE COPY OF G.O(MS)NO.50/83/HOME DATED 13/04/1983. EXHIBIT P12: TRUE COPY OF THE SCALE OF PAY REVISED BY THE GOVERNMENT OF KEALA IN FIVE DIFFERENT PAY SCALE

ORDER

S FROM 1989 TO 2011 RESPONDENT(S)' EXHIBITS
----- NIL //TRUE COPY// P.S.TO JUDGE. Msd.
A.V.RAMAKRISHNA PILLAI, J ----- WPC No.5707 of
2013 ----- Dated this the 18th day of March, 2015

JUDGMENT

Aggrieved by the uni-lateral action of the respondent Government in reducing the pay scale of the Sheristadars of the Principal District Court in the State with retrospective effect resulting in the recovery of more than a lakh of rupees from each District Court Sheristadars, the petitioner has come up before this Court.

2. The petitioner, who joined service as L.D.Clerk in the subordinate Judicial Service on 1.6.1978, was promoted to different categories and ultimately, he was promoted as District Court Sheristadars on 15.3.2007. The Apex Court has accepted the recommendation to grant pay scale 7800-12975 to the Principal District Court Sheristadar in the State as per Ext.P1(a). The High Court as per Ext.P4 addressed the Government for upgrading the pay scale of Principal District Court Sheristadars. As per Ext.P5 recommendation of the 9th Pay Commission WPC No.5707/2013 2 constituted by the State Government recommended that the Sheristadars of Principal District Court should have the pay scale of 24040-36140 and the other District Court Sheristadars should have the pay scale of 21240-34500 which is in accordance with the Shetty Commission Recommendation accepted by the Apex Court. Ext.P5 recommendation was accepted by the Government initially as per Ext.P6 and P6(a) orders and the petitioner who was holding the post of Principal District Court Sheristadar had obtained the revised pay scale with effect from 1.7.2009. Later on 25.6.2012, the Government issued Ext.P7 lowering the pay scale of the Principal District Court Sheristadar from 22360-37940 to 21240- 37040. The petitioner pointed out that even though such a revision was made in the case of Sheristadars of the Principal District Court, in the case of certain favoured class Government employees, the pay scales were enhanced as per Ext.P8, P8(a) and P8(b). On account of Ext.P7, the petitioner and all similarly placed Sheristadars are forced to repay more than 1.10 lakhs of rupees and WPC No.5707/2013 3 excess pay received from 1.7.2009. It is with this background the petitioner has come up before this Court.

3. In the counter affidavit filed by the High Court (third respondent) supporting the case of the petitioner, respondents 1 and 2 have filed a counter affidavit justifying their stand. According to them, the recommendation of the 9th Pay Commission was not in consonance with the equity and equilibrium maintained in the posts and the pay attached thereto. It was also pointed out that it has caused huge financial

commitment and burden to the State.

4. I have heard the learned senior counsel for the petitioner, the learned Senior Government Pleader and the learned standing counsel for the High Court.

5. When the matter came up for hearing, the learned standing counsel for the High Court made available to me a copy of G.O.(Gl.)No.450/2015/Home, Tvm dated 21.2.2015 allowing the pay scale at the rate of 22360- 37940 to the petitioner. However, it was subject to the rider that it would be subject to the final result of this writ WPC No.5707/2013 4 petition. It can be seen from Ext.P1 that the Shetty Commission has clearly found that the Sheristadar of Principal District Court placed pivotal administrative role in the functioning of the subordinate judiciary. It was recommended that the post of Chief Administrative Officer/Sheristadar of District Court should be given a higher scale of pay than other staffs working in the District Courts Administration. Thus, the Commission recommended a pay scale higher than other staffs including Sheristadars of other Additional District Courts to the Sheristadars of Principal District Courts. The Apex Court accepted the recommendation and directed implementation of recommendation with effect from 1.4.2003. However, the State of Kerala did not implement the recommendation as regards the staff of subordinate judiciary is concerned. It can be seen from Ext.P2 that by order dated 7.10.2009 the Apex Court in I.A.No.135-136 in WPC No.1022/1989 has clearly directed that the recommendation of Shetty Commission shall be implemented with effect from 1.4.2003. By order dated WPC No.5707/2013 5 7.10.2009, the Apex Court has directed that the High Court's judicial/Administrative side shall ensure implementation of recommendation of the Shetty Commission within a reasonable period of one year. Ext.P3 is the copy of the said order. In compliance, the High Court of Kerala has addressed a letter (Ext.P4) dated 10.3.2010 to the Government.

6. It is in the meanwhile the State Government has constituted the 9th Pay Commission under the Chairmanship of Justice R.Rajendra Babu, a former judge of this Court. The Commission, after hearing the affected parties, recommended that 14 posts of Sheristadars should have the pay scale of 24040-36140 and other District court Sheristadars should have the pay scale of 21240-34500 as per

Ext.P5. This is in tune with the recommendation of the Shetty Commission which was accepted by the Apex Court. Though Ext.P5 recommendation was accepted by the Government initially, later the pay scale was lowered for reasons best known to themselves. WPC No.5707/2013 6 7. One of the reasons pointed out by the learned Senior Government Pleader is that the implementation would cause financial burden to the Government. However, it is surprising to note that the State Government by Ext.P8, P8(a) and P8(b) have enhanced the pay scale in the case of certain Government employees. It can be seen from Ext.P8 series that about 41 classes of employees are given higher pay. No genuine reasons are stated by the State for this different treatment. There need not be any hesitation to hold that Ext.P7 has been issued clearly in violation of Ext.P1 recommendation which has been accepted by the Apex Court. By the impugned order, the post of Sheristadar of Principal District Court does not carry any higher pay and it is only having equal pay to that of Sheristadars of Additional District Courts/MACT/Special Courts etc.

8. On a consideration of the entire materials now placed on record, this Court is of the view that the petitioner is entitled to succeed. In the result, Exts.P7 and P9 are quashed. It is WPC No.5707/2013 7 hereby declared that the Sheristadars of all the Principal District Courts in the State are entitled to higher pay than other staff of District Courts in view of Ext.P1 recommendation approved by Exts.P2 and P3 orders. The respondents are directed to restore the pay scale of Sheristadars of Principal District Courts as fixed in Ext.P6 Government Order with effect from 1.7.2009. sd/-A.V.RAMAKRISHNA PILLAI JUDGE css/ true copy P.S.TO JUDGE

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