

P.Mohan. Vs. the Inspector of General Prison, and ors.

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Court : Chennai

Decided On : Aug-19-2010

Judge : T.Raja, J.

Appeal No. : W.P.No.45304 of 2006 (T) O.A.No.3209 of 2000

Appellant : P.Mohan.

Respondent : The Inspector of General Prison, and ors.

Advocate for Def. : Mr.S.Gopinathan, Adv.

Advocate for Pet/Ap. : Mr.K.Vasudevan, Adv.

Judgement :

1. The petitioner had approached the Tamil Nadu Administrative Tribunal, by filing Original Application No.3209 of 2000, seeking a direction to the respondents to revise the petitioner's scale of pay from 2750-4400 to 3050-4590 and pay all arrears from the date of 01.01.1998. The said Original Application was transferred to the file of this Court on abolition of the Tribunal and renumbered as W.P.No.45304 of 2006.

2. The petitioner, P.Mohan, after his appointment as Grade II Warder in the Central Prison, Vellore, was working in the Special Prison for Women, Vellore. In the year 1983, the scale of pay was Rs.280/- and the petitioner was also given same scale of pay. The nature of work, duty hours and physical fitness are one and the same for both posts. In the year 1985, the petitioner's scale of pay was

revised as per the Fourth Pay Commission as Rs.505/-. Thereafter, in the year 1989, the scale of pay of the petitioner was also revised at Rs.825/- as per the Fifth Pay Commission. Once again, in the year 1996, the petitioner's scale of pay was further revised to Rs.2,750/- as per the Sixth Pay Commission. When all these Pay Commissions fixed the same scale of pay for the post of Grade II Police Constables in the Police Department and for the post of Grade II Warder in the Prison Department, the 2nd respondent, while passing G.O.Ms.No.429, dated 28.08.1998, revised the scale of pay to the post of Grade II Police Constables from 2750-4400 to 3050-4590, but, surprisingly the 2nd respondent failed to consider the revision of scale of pay to the petitioner's cadre, which is Warder Grade II. Therefore, the petitioner complains the revision of scale of pay as discriminatory treatment and also violation of Articles 14, 16, 37 and 39(d) of the Constitution of India. Aggrieved by the non inclusion of the petitioner's Grade in the G.O.Ms.No.429, dated 28.08.1998, the petitioner made his representation to the respondents to revise the petitioner's scale of pay on par with Grade II Police Constable working in the Police Department. On receipt of the representation made by the petitioner, the respondent sent a reply stating that the petitioner's request is under consideration. Therefore, the petitioner has filed the present petition.

3. Learned counsel appearing for the respondents submits that the respondent, after considering the different nature of duties and different nature of responsibilities discharged by the Police Constables Grade II and Warder Grade II, finally found that the nature of duties and responsibilities faced by the Police Constable Grade II are always higher compared to the nature of duties of the Warder Grade II in the Prison Department, because, the nature of duties of the Warder Grade II is always confined to the Prison. Therefore, it was contended that the old pay parity cannot be claimed as a matter of right. In his further submission, it was also mentioned that One Man Commission appointed in the year 1998 also recommended higher scale of pay for the post of Police Constable Grade II in the Police Department based on the scale of pay given to similar post in the Central Government and also for the reason that the nature of duties of Police Constables are higher and arduous in maintaining Law and Order in the State. By taking note of the duties and responsibilities of Warder Grade II in the Prison Department,

whose nature of work is confined to the Prison, the One Man Commission has recommended higher scale of pay to the Police Constable Grade II working in the Police Department. Therefore, the petitioner cannot have any grievance for not bringing their scale of pay on par with the Police Constables Grade II working in the Police Department. On that basis, prayed for dismissal of the writ petition.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. Prima facie, it is clear that the petitioner, after appointment as Grade II Warder, was enjoying the same scale of pay applicable to the Police Constables Grade II working in the Police Department. Subsequently, after the recommendation of the 6th Pay Commission came into force, the One Man Commission was appointed in the year 1998 to rectify the pay anomalies of different categories of persons working in the various departments. The One Man Commission, after finding the nature of duties and responsibilities discharged by the Grade II Police Constables working in the Police Department and having seen their nature of duties and responsibilities are always higher than the nature of duties and responsibilities discharged by the Warder Grade II, who are always sitting within the prison, finally, recommended the enhancement of salary to the post of Police Constables Grade II working in the Police Department and has not given further revision of scale of pay to the post of Warder Grade II.

6. The nature of duties and responsibilities of Police Constables Grade II in the Police Department and Warder Grade II in the Prison Department are being not one and the same, this Court, having found that no discrimination and injustice caused to the petitioner, is not inclined to interfere with the impugned order and also does not find any violation of Articles 14, 16, 37 and 39(d) of the Constitution of India. Accordingly, this Court finds no substance in the present writ petition and the same is dismissed. No Costs.