



WEB COPY

1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2012

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P.(MD)No.1628 of 2011

A.Vijayalakshmi : Petitioner

Vs.

1.The Director of Employment and Training,  
Chennai-32.

2.The Secretary to Government,  
Labour & Employment Department,  
Secretariat,  
Chennai-9.

3.The Secretary to Government,  
Personnel and Administrative Reforms Department,  
Secretariat,  
Chennai-9.

4.The Principal,  
Government Industrial Training Institute,  
Virudhunagar, Virudhunagar District. : Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned letter in No.10005/Estt-3/2007, dated 29.12.2010 of the first respondent and quash the same and consequently, direct the first respondent to fix the pay of the petitioner in the post of Selection Grade Typist Grade-I with effect from 02.08.2007 in the time scale of pay of Rs.5000-150-8000 as illustrated in Government letter dated 01.12.1997 within a time frame.

For Petitioner	: Mr.S.Ponraj
For Respondents	: Mr.M.Alagudevan Special Government Pleader

### ORDER

This Writ Petition at the instance of a Typist joined in the State service on 10 November, 1980 and retiring today on attaining the age of superannuation, challenges the memorandum dated 29 December, 2010 on the file of the Director of Employment and Training, Chennai, whereby and whereunder request to fix her pay in the post of Selection Grade Typist Grade-I with effect from 02 August, 2007 in the time scale of pay of Rs.5000-150-8000, as



illustrated in the Government Letter dated 01 December, 1997 was rejected.

**FACTS IN BRIEF:**

WEB COPY

2. The petitioner joined in the service of the Government of Tamil Nadu as Typist on 10 November, 1980. Her appointment was in the Department of Employment and Training. The services of the petitioner were regularised later. The petitioner was awarded Special Grade in the post of Typist on 29 June, 2001, in view of her completion of 20 years of continuous service. The petitioner was awarded Typist Grade-I, as per proceedings dated 02 August, 2007 and she was given the pay scale of Rs.4000-100-6000. Even though she was given the Grade, the first respondent has not passed orders to fix her pay in the post of Selection Grade Typist Grade-I. Therefore, she was not given the pay scale applicable to Selection Grade Typist Grade-I. According to the petitioner, the Government have already issued orders on 15 February, 1994 in G.O.Ms.No.45, Personnel and Administrative Reforms (Per.B) Department, indicating that those who have rendered 18 years of service are entitled to move to Typist Grade-I. Since different departments have interpreted relevant Government orders regarding pay fixation of Typist including Selection Grade Typist/Special Grade Typist, the Government of Tamil Nadu issued a letter of clarification on 01 December, 1997 and indicated the uniform method to be adopted for fixation of pay. The Government have appended an illustration to the letter dated 01 December, 1997 as a guidance to fix the pay of Typist in the post of Typist Grade-I and Selection Grade Typist Grade-I. When the petitioner found that her pay was not fixed in accordance with the relevant Government Orders and in the light of the subsequent clarification, she submitted a representation on 22 June, 2010. The fourth respondent, on receipt of a copy of the proposal, recommended her case to the first respondent. However, the proposal was not accepted by the Directorate and by way of the impugned memorandum, the Director of Employment and Training, rejected her representation indicating that her pay has to be fixed in accordance with the Tamil Nadu Revised Scale of Pay Rules, 2009. Feeling aggrieved by the said order, the petitioner is before this Court.

3. The respondents have not filed their response, in spite of pendency of Writ Petition for the last one year.

4. I have heard the learned counsel for the petitioner in *extenso* and the learned Special Government Pleader appearing on behalf of the respondents.

**THE ISSUE:**

5. The core issue to be decided in this Writ Petition is whether the pay of the petitioner in the post of Selection Grade Typist Grade-I should be fixed in accordance with the clarification issued by the Government on 01 December, 1997 and as to whether the first respondent was justified in taking a decision to fix her pay in accordance with the Tamil Nadu Revised Scale of Pay Rules, 2009.

**DISCUSSION ON MERITS:**

6. There is no dispute that the petitioner joined the service on 10 November, 1980 and she was given the Special Grade in the post of Typist on 29 June, 2001. Subsequently, the petitioner was awarded Typist Grade I as per proceedings dated 02 August, 2007 on the file of the Joint Director (Craftsmen Training). Even though she was awarded Typist Grade-I, the first respondent has not passed the consequential order to give her eligible pay scale of Rs.5000-150-8000. She was given the time scale of pay of Rs.4000-100-6000. The clarification issued by the Government on 01 December, 1997 contains a clear indication as to how the pay scale has to be fixed in the post of Typist including Selection Grade Typist/Special Grade Typist. The Government have also given an illustration, so as to enable the concerned authorities to fix the pay scale on a uniform basis. The Department of Employment and Training was expected to sanction the applicable pay scale to the petitioner. Mere award of Typist Grade-I was not sufficient. The petitioner should have been given the actual time scale applicable to the post of Selection Grade Typist Grade-I. There would be no difficulty to sanction the applicable pay scale, in view of the clarification given by the Government along with illustration.

7. It is a matter of record that the Principal, Government Industrial Training Institute has forwarded the case of the petitioner to the first respondent and the proposal was kept pending. The request made by the petitioner was rejected on the basis of a subsequent Rule in the name and style of "Tamil Nadu Revised Scale of Pay Rules, 2009". The petitioner was not at fault for non-fixation of her scale simultaneous with the award of Typist Grade-I on 02 August, 2007. The first respondent should have taken immediate action to grant the correct pay scale to the petitioner. The claim was subsequently rejected on the basis of a Pay Rule, which was notified in the year 2009. While rejecting the representation given by the petitioner, the first respondent was carried away by the provisions of the Tamil Nadu Revised Scale of Pay Rules, 2009. In fact, no attempt was made by the said authority to consider the case of the petitioner with reference to the date of her eligibility. The petitioner was eligible for the revised pay scale applicable to the post of Selection Grade Typist Grade-I during the year 2007. Her claim cannot be rejected on the basis of a subsequent Pay Rule. This aspect was not considered by the first respondent. Therefore, I am of the view that the matter requires fresh consideration by the first respondent.

**CONCLUSION:**

8. Accordingly, the impugned memorandum dated 29 December, 2010 is quashed and the matter is remitted to the first respondent for fresh consideration. The first respondent is directed to consider the representation submitted by the petitioner, in the light of the relevant Government Orders applicable as on the date of award of Typist Grade-I to the petitioner and in the light of the



clarification and illustration issued by the Government on 01 December, 1997. Since the petitioner is retiring today (31 January, 2012), the issue requires to be considered emergently. The first respondent is, therefore, directed to complete the exercise, within a period of eight weeks from the date of receipt or production of a copy of this order.

9. The Writ Petition is allowed as indicated above. No costs.

Sd/-

Deputy Registrar(Writs)

/True Copy/

Assistant Registrar

To

1.The Director of Employment and Training,  
Chennai-32.

2.The Secretary to Government,  
Labour & Employment Department,  
Secretariat,  
Chennai-9.

3.The Secretary to Government,  
Personnel and Administrative Reforms Department,  
Secretariat,  
Chennai-9.

4.The Principal,  
Government Industrial Training Institute,  
Virudhunagar, Virudhunagar District.

+1cc to Mr.s.Ponraj, Advocate, Sr.No. 2649

sml

ssk/03.02.2012 /6c -4p/-

Order made in  
**W.P. (MD) No.1628 of 2011**

Delivered on:  
**31.01.2012**