

TAMIL NADU RURAL DEVELOPMENT ENGINEERS AND ASSISTANT ENGINEERS ASSOCIATION A

v.

GOVERNMENT OF TAMIL NADU AND OTHERS

(Civil Appeal No.10029 of 2017) B

NOVEMBER 28, 2019

**[UDAY UMESH LALIT AND INDU MALHOTRA, JJ.]**

*Service Law:*

*Pay – Constitution of Pay Grievance Cell – For removal of anomalies in the pay scale of employees in question – Pursuant to recommendations regarding pay-scale of State Government employees in consonance with recommendations made by Central 6th Pay Commission – Initially one man Commission was appointed to remove anomaly in the pay-scale of Public Works Department employees – After accepting the recommendations of One Man Commission, the State later downgraded 52 categories of posts in various Departments to lower pay-scale – Representation by aggrieved employees – State constituted Pay Grievance Redressal Cell (PGRC) for looking into the grievances and consider representation – Writ Petitions – Dismissed by Single Judge of High Court directing the State to reconstitute the PGRC – Writ Appeal – During pendency of Writ Appeal, PGRC constituted, it considered several representations and gave its recommendations, which were implemented by the State by G.O. No. 242 dated 22.7.2013 – G.O. No. 242 was also challenged in Writ Petition – Disposing of the writ petitions and writ appeals, Division Bench of High Court held that reduction in pay-scale was without following principle of natural justice hence directed the State to constitute a ‘Pay Grievance Redressal Committee’ to analyse and consider the case – Appeal by the employees as well as the State to Supreme Court – Held: Recommendations of the One Man Commission were found to be anomalous – If the State government constituted the PGRC to address those anomalies, such decision by itself cannot be found to be illegal or invalid – Prescription of pay-scale and assessment in that behalf being a complex matter need to be assessed by experts*

H

- A – *Therefore, there is no error in the impugned order directing constitution of PGRC.*

**Disposing of the appeals, the Court**

- HELD:** 1. GO No. 242 dated 22.7.2013 indicates very clearly that the Assistant Engineers who were in the pre-revised pay scale of Rs.6500-11100 by virtue of acceptance of the recommendations made by the 6<sup>th</sup> Central Pay Commission were kept in the pay scale of Rs.9300-34800 with grade pay of Rs.4700/- as a result of GO No. 234 dated 01.06.2009, while the next promotional level i.e. of the Assistant Executive Engineers was kept at Rs.15600-39100 with grade pay of Rs.5400/-. The recommendations of the One Man Commission resulted in upward revision to the extent of Rs.15600-39100 with grade pay of Rs.5400/- for the Assistant Engineers. The recommendations of the Pay Grievance Redressal Cell resulted in refixation for Assistant Engineers in the scale of Rs.9300-34800 with marginal increase of grade pay to Rs.5100/- as against what was available pursuant to GO No.234 dated 01.06.2009. [Para 13] [1025-B-D]

2. The recommendations of the PGRC dealt with the effects of the acceptance of the recommendations by the One Man Commission. The recommendations show that certain aspects of the matter were found to be anomalous. The difference between the Assistant Engineers and the post immediately lower than that was getting widened, while at the same time, the post of Assistant Engineer and the next level of promotion i.e. the post of Assistant Executive Engineer were brought almost at the same level. These anomalies found by the State Government, had to be addressed. If the State Government, therefore, constituted the PGRC, such decision by itself cannot be found to be illegal or invalid. [Para 14] [1025-E-F]

3. Prescription of pay-scales and the assessment in that behalf is a complex matter which requires expertise. The 6<sup>th</sup> Central Pay Commission comprising of experts in the field had recommended certain pay-scales for various posts. The Official Committee which comprised of Principal Secretary to the State, Home Department, as Chairperson with (i) Principal Secretary,

Finance Department; (ii) Principal Secretary, Personnel and Administrative Reforms Department; and (iii) Principal Secretary, School Education Department as Members, had examined the matter and made certain recommendations which were accepted by the Government by GO No.234 dated 01.06.2009. The One Man Commission appointed to consider the anomalies, however, recommended something which was far in excess of what was accepted by GO No.234 dated 01.06.2009 which in turn was in tune with the recommendations of the 6<sup>th</sup> Central Pay Commission. It is true that the Government had accepted the recommendations of the One Man Commission but if further anomalies were found which called for action on part of the Government, any exercise to reconsider the matter by the State Government could not be faulted nor could the constitution of the PGRC be said to be invalid or illegal. [Paras 15, 16] [1025-G; 1026-F-G; 1027-A-B]

4. Further, if there was any infirmity in the exercise of power by the PGRC in not granting adequate notice and hearing to the concerned, such infirmity could certainly be sorted out. That is exactly what the Division Bench undertook while passing the directions. Therefore, there is no error in the approach of and the directions issued by the Division Bench of the High Court. [Para 17] [1027-C]

5. But, it has been more than five years since the directions were issued by the Division Bench of the High Court and as a result of the interim orders passed by this Court, the PGRC could not be set up. In the circumstances, certain modifications in the directions issued by the Division Bench of High Court are called for. It is directed that the State Government shall issue appropriate orders constituting the PGRC. [Para 18] [1027-D-E; 1028-B]

6. It is clarified that regardless of the decision to be taken by the PGRC, any amount paid by way of financial benefit extended to and enjoyed by the concerned employees shall not be recovered i.e. to say that in case the decision in pursuance of the recommendations of the PGRC results in reduction in pay-scales or emoluments as were granted pursuant to GOs dated 26.08.2010, such reduction shall be prospective in application

A

B

C

D

E

F

G

H

- A from the day the recommendations of the PGRC come into effect.  
**[Para 19] [1028-F-G]**

**7. The affected categories shall not be permitted to migrate to 7<sup>th</sup> Central Pay Commission scales on the basis of the higher scales till such time as the final decision is taken. [Para 20]**

- B **[1029-B]**

*Dy. Director General of Geological Survey of India and Another v. R. Yadaiah and Others (2001) 10 SCC 563; State of Bihar and Others v. Bihar Veterinary Association and Others (2008) 11 SCC 60 : [2008] 3 SCR 222 ; Hukumchand Gupta v. ICAR (2012) 12 SCC 666 : [2012] 8 SCR 831 – relied on.*

**Case Law Reference**

	(2001) 10 SCC 563	relied on	Para 15
D	[2008] 3 SCR 222	relied on	Para 15
	[2012] 8 SCR 831	relied on	Para 15

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 10029 of 2017

- E From the Judgment and Order dated 27.02.2014 of the High Court of Judicature at Madras in Writ Appeal No. 811/2012

With

Civil Appeal Nos. 10030-10189/2017, 10190/2017, 10191/2017 and 10192/2017.

- F Mr. Vijay Narayan, Adv. General, Jayanth Muthuraj, AAG (TN), Balaji Srinivasan, AAG for TN, R. Venkataramani, Dushyant Dave, P.S. Patwalia, Gopal Shankar Narayanan, Ms. Aryama Sundaram, A. Thyagarajan, Vinay Navare, Sr. Advs., Yashraj Bundela, Praveen Vignesh, S. Ravi Shankar, Prashant Bhushan, N. Subramaniyan, Pranav Sachdeva, G Ms. Neha Rathi, Jatin Bhardwaj, Surinder Kr. Gupta, Ms. A. Jaswanthi, C.V. Vigneshwaran, K. V. Vijayakumar, B. Vinodh Kanna, Lenin Rajasehar, Mrs. S. Yamunah Nachiar, T. R. B. Sivakumar, B. Balaji, N. Subramaniyan, S. Muthu Krishnan, P. Soma Sundaram, K. V. Vijayakumar, Pranav Sachdeva, P. Arun Kr, G. Suvin Kumaran, Ms. Shivani Jena, Sriram P., M.A. Gowthaman, Ms. T. Archana, Gaffar, H

Uma Prasuna Bachu, Senthil Jagadeesan, Ms. Sonakshi Malhan, Ms. Suriti Chowdhary, Ms. Mrinal Kanwar, R. Rajaramani, S. Mahendran, G. Umapathy, Ms. Vaishnavi, Ms. Pavitra, Rakesh K. Sharma, Vijay Kumar, Swarnam J. Rajagopal, Ms. S. Lakshmikanth, Anish R. Shah, S. Beno Bencigar, P.R. Kovilan, Prem Narayan, Parijat Kishore, S. Nanda Kumar, Ms. Deepika Nandakumar, M.S. Saran Kumar, Naresh Kumar, Advs. for the appearing parties.

A

B

The Judgment of the Court was delivered by

**UDAY UMESH LALIT, J.**

1. These Appeals arise out of the judgment and order dated 27.02.2014 passed by the High Court of Judicature at Madras in Writ Appeal No.504 of 2012 and all other connected matters.

C

2. After the recommendations were given in March 2008 for revision of pay-scales by the 6<sup>th</sup> Central Pay Commission, an Official Committee was constituted by the Government of Tamil Nadu to examine and make recommendations about the pay-scales of Government Employees in consonance with the recommendations made by the 6<sup>th</sup> Central Pay Commission. This Official Committee submitted its report on 27.05.2009 making certain recommendations on “pay-scale to pay-scale” basis i.e. to say that for the existing scales of pay, the revised pay (pay band) and grade pay were recommended. The recommendations were accepted by the State Government by GO No.234 dated 01.06.2009. For the present purposes the relevant part of GO No.234 may be quoted here:

D

E

“(d) Further, the Government of India has granted two different revised scales of pay for the existing scale of Rs.8000-13500, one for promotees on the revised pay scale of Rs.9300-34800 (Pay Band – 2) with a Grade Pay of Rs.5,400/- and the other for direct recruits (Group – A entry) on the revised pay scale of Rs.15600– 39100 (Pay Band-3) with the same Grade Pay of Rs.5,400/-. The scale of pay of Section Officers in Central Secretariat has been placed in the Pay Band-3 i.e. Rs.15600-39100 + Grade Pay of Rs.5400/-. As the State Government is extending the same pay scale to the Section Officer / Private Secretary in Tamil Nadu Secretariat Service on par with their counterparts in Central Secretariat, the Government direct that the Section Officer /

F

G

H

- A Private Secretary in Secretariat / High Court / Tamil Nadu Public Service Commission shall also be placed in Pay Band-3. Further, all middle management posts, such as Administrative Officer, Accounts Officer, Deputy Collector etc. including Group-I entry level posts are presently granted a uniform scale of pay both for promotees and direct recruits. Hence, the Government direct that all the posts carrying the present scale of pay of Rs.8000-13500 shall be placed uniformly in Pay Band-3 and given the revised pay scale of Rs.15600-39100 with the Grade Pay of Rs.5,400/-.
- B Further, taking note of the fact that the same Grade Pay is allowed to the employees in Pay Band-2 from Rs.5000-8000 to Rs.6500-10500 in the Government of India, the Government has modified the Grade Pay as shown below so as to maintain the existing local relativity: -
- C

	Sl. No.	Existing Scale of pay (w.e.f. 1-1-96)	Revised Pay (Pay Band)	Revised Grade Pay
D	1.	5000-8000	9300-34800	4,200
	2.	5300-8300	9300-34800	4,300
	3.	5500-9000	9300-34800	4,400
	4.	5900-9900	9300-34800	4,500
	5.	6500-10500	9300-34800	4,600
E	6.	6500-11100	9300-34800	4,700"

F In terms of GO No.234 notional effect was given from 01.01.2006 while monetary benefits were accruable to the employees w.e.f. 01.01.2007. Separate Government Orders were issued in respect each of the departments based on GO No.234.

G 3. Thereafter, One Man Commission headed by Mr. Rajiv Ranjan, Principal Secretary to the Government of Tamil Nadu, Industries Department was constituted to rectify pay anomalies which had arisen as a result of implementation of the revised pay-scales pursuant to GO No.234. Said One Man Commission submitted its report on 31.03.2010. The State Government, through GO Nos.254 to 340 (86 GOs) accepted the recommendations of The One Man Commission. By way of illustration, GO No.312 dated 26.08.2010 with respect to certain categories of Public Works Department stated as under:

H

“The One Man Commission constituted in the G.O. second read above to examine anomalies, if any, consequent on the implementation of the recommendations of the Official Committee 2009 has recommended for revision of scales of pay of certain categories in Public Works Department. After careful examination, the Government has decided to accept the recommendations made by the One Man Commission in respect of the above department. Accordingly, Government direct that the scales of pay of the following posts shall be revised as shown below:-

Sl. No.	Name of the Posts	Existing scale of pay + Grade Pay	Revised Scale of pay + Grade Pay
		Rs.	Rs.
1	Executive Engineer	15600-39100+6600	15600-39100 +7600
2	Assistant Executive Engineer	15600-39100 +5400	15600-39100 +6600
3	Assistant Engineer	9300-34800 +4700	15600-39100 +5400
4	Head Draughting Officer	15600-39100 +5700	15600-39100 +6600

2) The revision of scales of pay ordered in para -1 above shall take notional effect from 1-1-2006 for the purpose of fixation of pay in the revised scales of pay and with monetary benefit from 01-08-2010.”

4. It is a matter of record that all Assistant Engineers who were earlier put in the pay-scale of Rs.9300-34800 with Rs.4700 as Grade Pay were thus placed in the revised scale of pay of Rs.15600-39100 with Rs.5400 Grade Pay, as a result of GOs dated 26.08.2010 and the benefit in terms thereof was extended to the concerned persons and their pay-scale stood revised accordingly.

A

B

C

D

E

F

G

H

- A        5. The State Government, however, issued GO No.71 dated 26.02.2011 scaling down certain benefits which were granted in pursuance of said GOs dated 26.08.2010. Such exercise was done without issuing any notice or affording any hearing to the persons concerned. As a result of this exercise, 52 categories of posts in various departments were downgraded to lower pay-scales. It was, however, made clear that whatever payment was made in terms of the earlier decision, would not be recovered. The State Government also constituted Pay Grievance Redressal Cell (“PGRC”, for short) in Finance Department headed by Thiru R. Thiyyag Rajan, Special Secretary to Government, Finance Department to look into the grievances and consider the representations of the employees aggrieved as a result of scaling down of the pay-scales.

- 6. Various writ petitions were filed by the concerned employees challenging the correctness and validity of GO No.71 dated 26.02.2011. These petitions were dismissed by a Single Judge of the High Court by judgment and order dated 08.03.2012 passed in Writ Petition No.7006 of 2011 and all connected matters. Since the services of Thiru R. Thiyyag Rajan were not available, the Single Judge directed the State Government to re-constitute the PGRC.

- E        7. The decision of the Single Judge was challenged by way of Writ Appeals and the Division Bench of the High Court by its order dated 27.03.2012 granted interim stay except with regard to the constitution of the PGRC. Consequently, the State Government issued GO No.123 dated 10.04.2012 and re-constituted the PGRC with Mr. Krishnan, Secretary to the Government as the Chairperson. The PGRC received around 4376 representations from various associations of employees/individuals. The PGRC gave hearing to the concerned representationists on 09.07.2012, 10.07.2012, 11.07.2012 and 16.08.2012 and thereafter submitted its recommendations to the State Government. The relevant portion of the recommendations was:-
- G        “1) The scales of pay of the employees in every pay revision from Tamil Nadu Fifth Pay Commission is based on the parity with similar posts in Government of India.

2) In Government of India both the Junior Engineer / Assistant Engineers are placed at the section level and its promotional posts Assistant Executive Engineer is placed at Sub-divisional level.

A

3) In Central Public Works Department the post of Assistant Engineer are placed in the scale of pay of Rs.9300-34800 + G.P. Rs.4600 as against the pre-revised scale of pay of Rs.7400-11100 based on the Sixth Central Pay Commission recommendations. Further, the Junior Engineers are also claiming pay hike given to Assistant Engineer due to the huge variation in emoluments consequent on placing the Assistant Engineers erroneously in Pay Band-3 (Rs.15600-39100 + G.P. Rs.5400) as both these posts are placed at section level and discharging the same work. The comparison with Medical Doctor is also not appropriate as there is no equivalent of Diploma holder in that line. In the Engineering line, there is a separate category of Diploma holders, who are Junior Engineers and holding charge as 'section in-charge' like Assistant Engineers. The recommendation of the One man Commission to place Assistant Engineers in Pay Band-3 opened up a huge differential with Junior Engineers, which appears unjustified. Therefore, it is appropriate that the scale of pay of Assistant Engineers in State Government may be brought down to Pay Band-2 at Rs.9300-34800. However, the Grade Pay of Rs.5100 already fixed in G.O.Ms.No.71, Finance (PC) Department, dated: 26-2-2011, which is at a level above their counterparts in Government of India would be appropriate. It also maintains an appropriate difference of Rs.700/- in Grand Pay from Junior Engineer. The Committee also recommend that the excess payments made till the issue of revised orders may be waived and not recovered.

B

C

D

E

F

4) It is observed that the Official Committee, 2009 had rightly placed the post of Assistant Engineer at Rs.9300-34800 + G.P. Rs.4700 as against the pre-revised scale of pay of Rs.6500-11100. In the light of the above facts, the Committee consider it appropriate to place the post of Assistant Engineers on par with similar posts in Central Public Works Department and also

G

H

- A considering the local pay relatively among other higher posts, the Committee recommends that it would be appropriate that the pay scale of Assistant Engineers may be brought down to Pay Band-2 from Pay Band-3 and granted an enhanced Grade Pay in the scale of pay of Rs.9300-34800 + G.P. Rs.5100 i.e. with the same Grade pay as ordered in G.O.Ms.No.71, Finance (Pay Cell) Department dated:26-02-2011. This implies that the Assistant Engineer in State Public Works Department would be placed with a difference in Grade pay of Rs.500/- in Grade Pay above the Assistant Engineers in the Central Public Works Department. Likewise, the Committee also recommends to place the post of Executive Engineer and Assistant Executive Engineer in the appropriate revised scale of pay of Rs.15600-39100 + GP. Rs.6600 and Rs.15600-39100 + G.P. Rs.5400 respectively as originally recommended by the Official Committee, 2009 duly endorsing the orders issued by Government in G.O.Ms.No.71, Finance (Pay Cell) Department dated:26-02-2011 uniformly on par with the equivalent posts in other Government Departments.”

- E 8. The recommendations of the PGRC were accepted by the State Government and GO No.242 was issued on 22.07.2013 to implement the recommendations. After quoting certain portions of the recommendations given by the PGRC, GO No.242 stated as under:

- F “After careful examination, the Government has decided to implement the above recommendations of the Pay Grievance Redressal Cell considering the level of Assistant Engineer in Central Public Works Department and the consequential changes made thereon by endorsing / modifying the scales of pay of certain categories ordered in the G.O.Ms. No. 71, Finance (Pay Cell) Department, dated: 26.02.2011 read above.”

- G GO No.242 also gave a tabulated chart about various departments and insofar as Public Works Department was concerned, the tabulated chart was as under:

- H

1	2	3	4	5	6	7
S. No.	Name of the Post/ Department	Pre-Revised Scale of Pay	Corresponding revised scale of pay+ GP.	Scale of pay granted based on OMC / subsequent GOS	Scale of Pay as per G.O.Ms No.71 dated 26.02.2011	Revised Scale of pay
1 to 32.	...	...	...	...	...	..
XII	PUBLIC WORKS DEPARTMENT					
33.	Assistant Engineer	6500-11100	9300-34800 +4700	15600-39100 +5400	15600-39100 +5100	9300-34800 +5100
34.	Assistant Executive Engineer	8000-13500	15600-39100 +5400	15600-39100 +6600	15600-39100 +5400	15600-39100 +5400
35.	Executive Engineer	10000-15200	15600-39100 +6600	15600-39100 +7600	15600-39100 +6600	15600-39100 +6600
36.	Head Draughting Officer	9100-14050	15600-39100 +5700	15600-39100 +6600	15600-39100 +5700	15600-39100 +5700
37. to 52.	...	...	...	...	...	...

It was also stated:

“(3) The revision of scale of pay ordered above shall take notional effect from 01.01.2006/12.12.2007 as the case may be with monetary benefit from 01.04.2013. However, the excess payments, if any made to the employees so far shall be waived and the pay refixed in the appropriate scales of pay as ordered above.”

9. Number of writ petitions were filed challenging GO No.242 dated 22.07.2013. Those writ petitions as well as the pending writ appeals were taken up together and disposed of by the Division Bench of the High Court by its judgment under appeal.

10. The Division Bench found that by fixing higher pay by virtue of GO No.234 dated 01.06.2009 and consequential separate Government Orders issued for various departments, the concerned government employees were paid higher salaries/pay-scales w.e.f. 01.01.2007 and such benefits were now reduced by the Orders which were under challenge and the reduction in benefits was without following principles of natural justice. Following directions were, therefore, issued by the Division Bench:

A

B

C

D

E

F

G

H

- A “50. As we found illegality in not following the principles of natural justice, before reducing the scales of pay, it is necessary that the matter is to be considered afresh by the Government after giving opportunity to all concerned especially, for reducing the scale of pay/grade pay. It is not in dispute that if really, there is any pay anomaly, the government is entitled to remove the same by following the due procedures. As rightly contended by the learned Senior Counsels and other learned counsels for the petitioners, the One-Man Committee and the PGRC appointed by the Government, all its members are Government Officers and they have already decided to reduce the pay scale of 52 categories of 20 departments, including pensioners and family pensioners in those departments, it may not be appropriate again to permit the Government to reconsider the issue on the recommendations of the Government officials alone. At this juncture it is relevant to note that the Central Government appointed retired Judge of the Hon’ble Supreme Court to head the V Central Pay Commission. Similarly, a retired Judge of Hon’ble Supreme Court was appointed as the Chairman of VI Central Pay Commission. The Hon’ble Supreme Court appointed a retired Judge of this Court to consider the pay anomaly among the Judicial Officers/Judicial Pensioners at All India level. It is also not disputed that while extending the Pay Commission benefits, the technicalities as well as the legal issues regarding the claim of Equal Pay for Equal Work, qualifications, nature of duties etc. are also to be analysed and considered. Hence, we are of the view that it is just and appropriate to appoint a retired Judge to head the Pay Grievance Redressal Committee.
- F 51. In such circumstances, the writ appeals and writ petitions are disposed of with the following directions:
- (i) The Government shall constitute a Pay Grievance Redressal Committee under the Chairmanship of Hon’ble Mr. Justice A.S. Venkatachalamoorthy, formerly Judge of this Court, who was elevated and retired as Chief Justice of the Chattishgarh High Court.
- (ii) The Government is at liberty to nominate one or two Senior level IAS Officers at the level of Principal Secretary, serving/retired as Member(s) of the Pay Grievance Redressal Committee.
- G
- H

(iii) The Pay Grievance Redressal Committee shall be given specific terms of reference by the Government, with a request to submit a report/recommendations for taking fresh decision regarding the enhancement/reduction of the pay scales/grade pay of 52 or more categories of 20 or more departments, etc. A

(iv) The Government is directed to constitute the above said committee within a period of three weeks from the date of receipt of copy of this order, prescribing time limit, within which report/recommendations is to be submitted for taking fresh decision. B

(v) In view of the constitution of the above said Committee as ordered above, the implementation of G.O.Ms.No.71 dated 26.2.2011 and G.O.Ms.No.242 dated 22.7.2013 insofar as it affects any category of Government Servants/ pensioners/family pensioners, which are not implemented as on today shall not be implemented till fresh decision is taken. C

(vi) If any of the categories of Government servants of any department, who have been offered higher scales of pay as on today, it is open to the Government to implement the same insofar as the pay scales, which are beneficial to the employees of such categories. D

(vii) As we have appointed the Chairman of the PGRC, we direct the Government of Tamil Nadu to make available office premises with supporting staff and to provide a Government car with driver for the use of the Chairman for effective functioning of the Committee. E

(viii) We fix the remuneration for the Chairman of the Committee as Rs.1.50 lakhs per month and direct the Government to sanction necessary funds towards remuneration and for meeting other expenses for effective functioning of the Committee. F

(ix) It is open to the Government to fix remuneration of the Members/Member of the Committee, to be nominated by the Government, if they are retired IAS officer(s)." G

11. Two sets of appeals have been filed in this Court challenging the decision of the Division Bench. The first set is by the Government Employees and their Associations submitting *inter alia* that once the H

- A process undertaken by the State Government was found to be in violation of the principles of natural justice, complete benefit of setting aside the impugned decisions ought to have been extended. It is also submitted that the exercise undertaken by the One Man Commission was a proper exercise and its recommendations were accepted by the State Government after considering the matter carefully and thus there was no occasion for the State Government to take any different view in the matter. On the other hand, the second set of appeals, at the instance of the State Government submits *inter alia* that the exercise undertaken by the PGRC was after giving due opportunity to the concerned employees and their Associations and as such the High Court was not justified in setting aside GO No.242 seeking to implement the recommendations given by the PGRC.

By interim order passed in these matters, stay of operation of the judgment under appeal, to the extent fresh PGRC was directed to be set up, was granted by this Court which status is still continuing.

- D 12. We heard Mr. Dushyant Dave, Mr. R. Venkataramani, Mr. C.A. Sundaram, Mr. P. S. Patwalia, Mr. Vinay Navare, learned Senior Advocates and Mr. Prashant Bhushan, learned Advocate for the appellants in the first set of appeals and Mr. Vijay Narayan, learned Advocate General for the State. It was submitted by the learned counsel appearing for the Government Employees and their Associations that having accepted the recommendations made by the One Man Commission and having given benefits in terms of said recommendations, the State Government could not have lowered the pay scales of the concerned employees. On the other hand, it is the submission of the State that the acceptance of the recommendations of the One Man Commission resulted in greater anomalies; that the level of Assistant Engineers, which is the entry level in various Engineering services was wrongly clubbed with other entry level services like Assistant Surgeons; and that as a result of upward revision for Assistant Engineers the gap between the level of the Assistant Engineers and the subordinate ranks got widened to a considerable level while the Assistant Engineers and the promotional level for Assistant Engineer were brought almost at the same levels. According to the learned Advocate General, various such anomalies were required to be sorted out which in turn made the State Government to constitute the PGRC. According to the State Government,

H

normally the pay scales afforded to equivalent ranks in the Central Government are higher than the ranks in the State Government but the entry level of Assistant Engineers in the State Government, as a result of the recommendations of the One Man Commission was kept at a level far too higher than their counterparts in the Central Government.

13. The Tabulated Chart which is part of GO No.242 indicates very clearly that the Assistant Engineers who were in the pre-revised pay scale of Rs.6500-11100 (column No.3), by virtue of acceptance of the recommendations made by the 6<sup>th</sup> Central Pay Commission were kept in the pay scale of Rs.9300-34800 with grade pay of Rs.4700/- (column No.4) as a result of GO No.234 dated 01.06.2009, while the next promotional level i.e. of the Assistant Executive Engineers was kept at Rs.15600-39100 with grade pay of Rs.5400/-. The recommendations of the One Man Commission resulted in upward revision to the extent of Rs.15600-39100 with grade pay of Rs.5400/- (column No.5) for the Assistant Engineers. The recommendations of the PGRC resulted in refixation for Assistant Engineers in the scale of Rs.9300-34800 with marginal increase of grade pay to Rs.5100/- (column No.7) as against what was available pursuant to GO No.234 dated 01.06.2009.

14. The recommendations of the PGRC dealt with the effects of the acceptance of the recommendations by the One Man Commission. Para 3 of the recommendations quoted hereinabove shows that certain aspects of the matter were found to be anomalous. The submissions advanced by the learned Advocate General also show how the difference between the Assistant Engineers and the post immediately lower than that was getting widened, while at the same time, the post of Assistant Engineer and the next level of promotion i.e. the post of Assistant Executive Engineer were brought almost at the same level. These anomalies found by the State Government, had to be addressed. If the State Government, therefore, constituted the PGRC, such decision by itself cannot be found to be illegal or invalid.

15. It has always been accepted by this Court that prescription of pay-scales and the assessment in that behalf is a complex matter which requires expertise. For instance, in *Dy. Director General of Geological Survey of India and another v. R. Yadaiah and others*<sup>1</sup> it was observed:

<sup>1</sup>(2001) 10 SCC 563

A

B

C

D

E

F

G

H

- A “Ordinarily, the courts or tribunal should not go into the question of fitment of the officers in a particular group or the pay scales thereof, and leave the matter to the discretion and expertise of the special commission like the Pay Commission.”

In *State of Bihar and others v. Bihar Veterinary Association and others*<sup>2</sup> it was observed :-

- B “13. If the courts start disturbing the recommendations of the pay scale in a particular class of service then it is likely to have cascading effect on all related services which may result into multifarious litigation. The Fitment Committee has undertaken the exercise and recommended the wholesale revision of the pay scale in the State of Bihar and if one class of service is to be picked up and granted higher pay scale as is available in the Central Government then the whole balance will be disturbed and other services are likely to be affected and it will result in complex situation in the State and may lead to ruination of the finances of the State. ....”

In *Hukumchand Gupta v. ICAR*<sup>3</sup> it was stated :-

- C “20. ... Prescription of pay scales on particular posts is a very complex exercise. It requires assessment of the nature and quality of the duties performed and the responsibilities shouldered by the incumbents on different posts. Even though, the two posts may be referred to by the same name, it would not lead to the necessary inference that the posts are identical in every manner. These are matters to be assessed by expert bodies like the employer or the Pay Commission. ....”

- D “16. It may be stated here that the 6<sup>th</sup> Central Pay Commission comprising of experts in the field had recommended certain pay-scales for various posts. The Official Committee which comprised of Principal Secretary to the State of Tamil Nadu, Home Department, as Chairperson with (i) Principal Secretary, Finance Department; (ii) Principal Secretary, Personnel and Administrative Reforms Department; and (iii) Principal Secretary, School Education Department as Members, had examined the matter and made certain recommendations which were accepted

---

H <sup>2</sup>(2008) 11 SCC 60

H <sup>3</sup>(2012) 12 SCC 666

by the Government by GO No.234 dated 01.06.2009. The One Man Commission appointed to consider the anomalies, however, recommended something which was far in excess of what was accepted by GO No.234 dated 01.06.2009 which in turn was in tune with the recommendations of the 6<sup>th</sup> Central Pay Commission. It is true that the Government had accepted the recommendations of the One Man Commission but if further anomalies were found which called for action on part of the Government, any exercise to reconsider the matter by the State Government could not be faulted nor could the constitution of the PGRC be said to be invalid or illegal.

17. Further, if there was any infirmity in the exercise of power by the PGRC in not granting adequate notice and hearing to the concerned, such infirmity could certainly be sorted out. That is exactly what the Division Bench undertook while passing the directions quoted hereinabove. We, therefore, see no error in the approach of and the directions issued by the Division Bench of the High Court.

18. But, it has been more than five years since the directions were issued by the Division Bench of the High Court and as a result of the interim orders passed by this Court, the PGRC could not be set up. In the circumstances, certain modifications in the directions issued by the Division Bench in para 5 of its order are called for and we proceed to direct:-

- (A) Direction No.(i) as issued by the Division Bench is reiterated except that Mr. Justice A.S. Venkatachalamoorthy having now expressed his unwillingness, Mr. Justice D. Murugesan, formerly Chief Justice, High Court of Delhi is appointed as Chairman of the Pay Grievance Redressal Committee.
- (B) Direction No.(ii) as issued by the Division Bench is accepted and it is added that the Chairman of the PGRC will be at liberty to co-opt any two experts as he deems appropriate as members of the PGRC, who shall be paid such honorarium by the State Government, as the Chairman deems appropriate.
- (C) Direction Nos.(iii) and (v) to (vii) issued by the Division Bench are accepted and do not call for any change.

A

B

C

D

E

F

G

H

- A      (D) Instead of Rs.1.5 lakhs per month, we fix the honorarium of the Chairman of the PGRC at Rs.3.5 lakhs per month but the other parts of Direction No.(viii) are maintained.
- (E) Direction No.(ix) issued by the Division Bench is accepted and does not call for any change.
- B      (F) It is further directed:-
  - a) Within a week from today, the State Government shall issue appropriate orders constituting the PGRC as stated above.
  - b) Within a week thereafter, the State Government shall make appropriate and adequate arrangements and provide office space befitting the status of the Chairperson and other Members and also provide adequate staff, secretarial assistance and other facilities.
- C      (c) Within two weeks of the constitution of the PGRC all the concerned individuals/associations shall file their representations. No representation filed beyond the period of two weeks shall ordinarily be accepted by the PGRC.
- D      (d) Direction No. (iv) issued by the Division Bench shall stand modified to the aforesaid extent.
- E      (e) These directions are in addition to and in further elaboration of direction No. (vii) issued by the Division Bench.
- F      19. It is clarified that regardless of the decision to be taken by the PGRC, any amount paid by way of financial benefit extended to and enjoyed by the concerned employees shall not be recovered i.e. to say that in case the decision in pursuance of the recommendations of the PGRC results in reduction in pay-scales or emoluments as were granted pursuant to GOs dated 26.08.2010, such reduction shall be prospective in application from the day the recommendations of the PGRC come into effect.
- G      20. It must be stated that the recommendations of the 7<sup>th</sup> Central Pay Commission have since been made and the issue regarding implementation of such recommendations is presently under active consideration. The present matters which pertain to the recommendations of the 6<sup>th</sup> Central Pay Commission therefore need to be resolved at the
- H

earliest. In the circumstances, we request the PGRC to conclude the A entire exercise within four months from today.

By way of clarification, it is added that the affected categories shall not be permitted to migrate to 7<sup>th</sup> Central Pay Commission scales on the basis of the higher scales till such time as the final decision is taken. B

21. Lastly, it is clarified that the observations in the present order have been made purely from the stand point of consideration whether the decision of the State Government in constituting the PGRC was correct or not and not by way of reflection on merits of the matter. The matter shall be considered by the PGRC and the State Government C purely on merits and uninfluenced by any of the observations made by us.

22. With the aforesaid directions these appeals are disposed of without any order as to costs. D

Kalpana K. Tripathy

Appeals disposed of.