

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on: 20.08.2019

Orders Pronounced on :05.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.10499 of 2011

T.Sankara Narayana Pillai

.. Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by the Secretary to Government,
Home Department, Secretariat,
Chennai-600 009.

2. The Registrar General,
High Court of Madras,
Chennai-600 104.

3. The Accountant General (A & E) Tamil Nadu,
361, Anna Salai,
Chennai-600 018.

(The third respondent impleaded as per
Court Order dated 03.09.2018 in
W.M.P.No.24461 of 2018 in W.P.No.10499 of 2011)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records of the first respondent in Letter No.23010/Cts-I/2009-2, dated 08.03.2011 and quash the same and consequently direct the respondents to accept the fixation of pay of the petitioner by the Chief Judicial Magistrate, Villupuram in his

proceedings A1.No.178/2005, dated 04.12.2008 awarding I & II ACPs. and fix further pay on promotion under FR 22(1)(a)(i) r/w 22-B with option to have fixation in the promoted post on 01.07.1998 (the date of accrual of next increment), with all other consequential attendant benefits like interest for delay, etc., within the time stipulated by this Court.

For petitioner : Mr.M.Sriram

For respondents : Mr.V.Shanmuga Sundar, Spl.G.P. for R-1

Mr.E.K.Kumaresan for R-2

Mr.V.Vijay Shankar for R-3

ORDER

R.SUBBIAH, J

The petitioner has come forward with the present Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records of the first respondent in Letter No.23010/Cts-I/2009-2, dated 08.03.2011 and quash the same and consequently direct the respondents to accept the fixation of pay of the petitioner, by the Chief Judicial Magistrate, Villupuram, in his proceedings A1.No.178/2005, dated 04.12.2008 awarding I & II ACPs. and fix further pay on promotion under Fundamental Rules (for short, "FR") 22(1)(a)(i) r/w FR-22-B with an option to have the fixation in the promoted post on 01.07.1998 (the date

of accrual of next increment), with all other consequential attendant benefits like interest for delay, etc., within the time stipulated by this Court.

2. It is the case of the petitioner that he was appointed as Sub-Magistrate (Judicial) by G.O.Ms.No.520, Home Department, dated 21.02.1972 and the consequential order of this Court in R.O.C.No.712/E1, dated 18.03.1972 and he joined duty as Sub-Magistrate (Judicial), Tiruvadanai on 03.04.1972. He was promoted as District Munsif by G.O.Ms.No.956, Home Department, dated 27.03.1980 and also by the consequent Notification of the High Court in No.79/80 in R.O.C.No.11/80 Con/B2, dated 28.05.1980. He joined duty on 09.06.1980 AN (afternoon) as XIII Metropolitan Magistrate, Egmore, Chennai-600 008 in the cadre of District Munsif. Thereafter, he was transferred and posted at different places in the same cadre. By virtue of the order in G.O.Ms.No.2196, Home (Courts-1) Department, dated 06.10.1988, he became a regular District Munsif and his services as District Munsif were regularised with effect from 10.06.1980 as per G.O.(3D).No.289, Home (Courts.IA) Department, dated 31.12.2001. He moved to Selection Grade in the cadre of District Munsif with effect from 10.06.1990, as per the order of this Court in R.O.C.No.65/201.Con.B2, dated 06.05.2003 and his pay was fixed in the Selection Grade. While he was holding the post of Judicial Magistrate No.I, Tindivanam, he was promoted as Civil Judge (Senior Division) and posted as

Principal Sub-Judge, Chengalpattu in the existing vacancy, as per this Court's Notification No.21/98-Con.B2, dated 28.02.1998. He joined duty on the forenoon of 04.03.1998.

3. It is the further case of the petitioner that the Government of Tamil Nadu in G.O.Ms.No.162, Finance (Pay Cell) Department, dated 13.04.1998 revised the scales of pay of the Government employees in Tamil Nadu, including the Judicial Officers with effect from 01.01.1996, by accepting the report of Vth Pay Commission. The pay scales fixed for the post of District Munsif (Civil Judge-Junior Division) in the Ordinary Scale is Rs.9100-275-14050 and in the Selection Grade, it is Rs.10000-325-15200. The pay of the petitioner as per G.O.Ms.No.162, Finance (Pay Cell) Department, dated 13.04.1998 as on 01.01.1996, was fixed at Rs.11,300/- under the Selection Grade scale of pay of Rs.10000-325-15200, as per the proceedings of this Court in R.O.C.No.65/2001.Con.B2, dated 06.05.2003. It is further stated by the petitioner that the Supreme Court, by order dated 21.03.2002 in W.P.(C).No.1022 of 1989 (All India Judges Association Vs. Union Of India), reported in 2002 (4) SCC 247, had accepted the report of the First National Judicial Pay Commission (for short, 'FNJPC') headed by Hon'ble Mr.Justice Shri Jagannath Shetty and directed the Union of India and all the States to implement its recommendations with effect from 01.07.1996. The petitioner further states

that the FNJPC recommended Accrued Career Progression Scheme (for short, 'ACP') for the Judicial Officers on completion of every five years. The scales of pay fixed by the FNJPC and accepted by the Apex Court are as follows:

Civil Judge (Junior Division):

Ordinary Scale	: 9000-250-10750-300-13150-350-14450
I ACP	: 10750-300-13150-350-14900
II ACP	: 12850-300-13150-350-15950-400-17550

Civil Judge (Senior Division):

Ordinary Scale	: 12850-300-13150-350-15950-400-17550
I ACP	: 14200-350-15950-400-18350
II ACP	: 16750-400-19150-459-20500

4. It is the further stand of the petitioner in the affidavit filed in support of the present Writ Petition that the Government of Tamil Nadu in G.O.Ms.No.289, Home (Courts (IA) Department, dated 31.03.2003, passed orders to implement the Pay Scales recommended by the FNJPC and the mode of implementation was prescribed in G.O.(Ms).No.581, Home Courts.IA) Department, dated 30.06.2003. In G.O.Ms.No.771, Home (Courts IA) Department, dated 09.09.2009, the Government of Tamil Nadu directed to add 10% of the pre-revised pay drawn to the pay to be fixed under G.O.No.162, Finance (Pay Cell) Department, dated 23.04.1998 with effect from 01.01.1996. The High Court, in the proceedings in

R.O.C.No.53/2003 Con.B2, dated 30.08.2005, passed orders fixing the ACP for the Judicial Officers concerned in Tamil Nadu and revised it in R.O.C.No.53/2003/Con.B1, dated 25.04.2008 based on the objections raised by the third respondent-Accountant General in Letter No.GAD.IV/I/59, dated 22.05.2006 and accepting the mode of fixation suggested in D.O.Letter No.GAD/IV/VII/312, dated 31.03.2008. Though the I ACP was with effect from 10.06.1985 and the II ACP was with effect from 10.06.1990, no notional fixation or monetary effect was given from those dates, but the actual fixation and monetary effect was from 01.07.1996 only.

5. It is also stated by the petitioner that based on the orders of the Government and the proceedings/order(s) of this Court referred to above, the Chief Judicial Magistrate (CJM), Villupuram, by order dated 04.12.2008 in A1.No.178/2005, fixed the petitioner's pay as on 01.07.1996 at Rs.13150/- at II ACP level. The third respondent/Accountant General (for short, 'the A.G') rejected the above fixation and directed the CJM, Villupuram, by proceedings in GAD.IV/II, dated 15.01.2019 to fix the petitioner's pay as on 01.01.1996 and the relevant portion of the said order of A.G. is extracted below:

"Sub: Courts and Judges--Fixation of pay
Sri.T.Sankaranarayana Pillai, formerly Judicial
Magistarte-I, Tindivanam - now retired from service -
service register returned for correction - reg.

Ref: 1) G.O.289 & 281 dated 31/3/03 to 30/06/03.

- 2) ROC 53/03 Con.B1 dated 23/4.08 HC Madras-104
- 3) Your Ir.D.No.3844/08 dated 8/12/08

with reference to your letter cited forwarding the service register of T.Sankaranarayana Pillai formerly Judicial Magistrate-I, Tindivanam and now retired from service is returned with the following remarks:

I am to request you to revise the pay of the Judicial Officer from 1/7/96 as per the guidelines issued in the reference 2nd cited.

The pay of the officer refixed under FR.22B on awarded of I ACP is not correct. The pay should be fixed as follows. Pay as on 1/1/96 in the prerevised scale of 3850/-. This should be fixed in the revised pay scale of 9100-275-14050 as on 1/1/96 and then fix the pay under FR 23 in the scale of 9000-250-10750-300-13050 as on 1/7/96. The pay may be fixed in I ACP and II ACP under FR 22B as on 1/7/96.

The correct fixation may please be made and necessary entries may be noted in the service register and the revised last pay certificate with service register may be sent to this office early."

Thus, virtually, the petitioner was reverted to the ordinary post of District Munsif from Selection Grade post. At the same time, the third respondent/A.G accepted the fixation of pay of his immediate junior Mr.A.K.Annamalai under the Selection Grade by the CJM, Chengalpattu, without any objection and passed consequential orders of fixing the ACPs without any objection. Finding no other option, the CJM, Villupuram revised the order dated 04.12.2008 and fixed his pay as on 01.01.1996 at Rs.11,025/- in the ordinary scale for District Munsif and further fixed the I and II ACPs in his order in A1.No.178/05, dated 30.01.2009. Accordingly, the petitioner's pay at II ACP level was fixed at Rs.12,850/- which is

the minimum for the post and one usual increment was sanctioned to him on 01.07.1997 and his pay was fixed at Rs.13,150/-. The petitioner who was officiating as Judicial Magistrate-I, Tindivanam, was promoted as Civil Judge (Senior Division) as per the High Court's Notification No.21/98, dated 28.02.1998 and posted as Principal Sub-Judge, Chengalpattu. The petitioner opted to have his pay in the promotion post fixed under FR.22(1)(b)(i). Therefore, the Judicial Magistrate-I, Tindivanam sent the Last Pay Certificate to the Principal Accountant General, since it was a self-drawing officer's post. The third respondent/A.G passed further order fixing the pay of the petitioner in the higher cadre of Civil Judge (Senior Division) at the same stage at Rs.13,150/-, which he was already drawing in the lower post of District Munsif (Civil Judge (Junior Division/Judicial Magistrate) from 01.07.1997. Thus, the petitioner was forced to officiate in the higher post of Sub-Judge, drawing the pay of the lower post of District Munsif.

6. In the above context, the petitioner states that the scales of pay of Civil Judge (Junior Division) under II ACP level is identical to the ordinary scale for the post of Civil Judge (Senior Division) as per the scheme of the I FNJPC, but the post of Civil Judge (Senior Division)/Subordinate Judge is a post of higher responsibilities than that of the District Munsif.

(i) Sub-Judge is the Appellate Authority for the District Munsif;

(ii) The Chief Judicial Magistrate in the cadre of Sub-Judge is the immediate controlling officer and the District authority for the Judicial Magistrates in the cadre of District Munsifs.

(iii) The Sub-Judges had unlimited pecuniary jurisdiction at the relevant time, whereas the pecuniary jurisdiction of the District Munsif was Rs.1 lakh only.

(iv) As Assistant Sessions Judges, the Criminal jurisdiction is award of sentence upto 10 years and any fine, while that of the Judicial Magistrates in the cadre of District Munsif is three years and Rs.5000/- only. (prior to amendment of the Criminal Procedure Code (Cr.P.C)).

(v) The work norms for Sub-Judges are 6 suits/Sessions Cases and 15 Appeals, while the norms for the District Munsifs is 15 suits/20 Criminal cases and 100 witnesses.

(vi) The Sub-Judges constitute various Tribunals such as Motors Accidents Claims Tribunal, Recognised Private Schools Appellate Tribunal, ESI Tribunals, Wakfs Tribunals, etc., whereas there is no such constitution of the Tribunals in the cadre of District Munsif. सत्यमेव जयते

7. It is the further submission of the petitioner that the post of District Munsif was declared to be a post of higher responsibility than the Judicial First Class Magistrate by the Government, though both the posts were on identical

scale (Rs.750-50-1000). Though the above facts were brought to the notice of the third respondent/A.G as well as the first respondent-Government in the representations made by the petitioner, the same were not considered by them at all. The petitioner continued in the scale of pay of the District Munsif for the next five years, but officiated in the higher cadre post till he became eligible for I ACP level fixation in the cadre of Sub-Judge (Civil Judge-Senior Division) in April 2003. His legitimate expectation for further promotion was lost due to the delay caused by the respondents and he retired from service on 30.09.2004 having completed 32 years and 6 months in the Judicial Service.

8. The petitioner relies on F.R.23 and G.O.(Ms).No.581, Home (Courts.IA) Department, dated 30.06.2003, as per which, the pay shall be fixed in the revised scale from the date of revision of scale of pay on the basis of the pay drawn in the existing scale at the same stage, if there is a stage in the revised scale existing and if there is no such stage, the pay shall be fixed at the next higher stage. The petitioner's pay as on 01.01.1996 was fixed at Rs.11,300/- and one normal increment was due to the petitioner on 01.07.1996 and as such, his pay on 01.07.1996 was Rs.11,625/-. There is no equal stage in the FNJPC scales. Therefore, the petitioner states that his pay should have to be fixed at Rs.11,650/-, i.e. the stage next above, under FR.23, as correctly fixed by the CJM, Villupuram in his order in A1.No.178/2005, dated 04.12.2008. The revised

fixation order by the CJM in Dis.No.1646, dated 14.05.2010 adding 10% benefit, was also rejected by the third respondent/A.G.

9. The petitioner leans his case based on F.R.22(1)(a)(i) and F.R.22-B, as per which, whenever an officer is promoted to a post carrying higher responsibilities, he is entitled to have his pay fixed under FR-22.B, but the third respondent/A.G refused to apply this Rule and fix the pay of the petitioner under FR-22.B without any rhyme or reason or enabling the provision of law and retained him in the pay of the lower post for five years. The action of the third respondent/A.G is not in consonance with the above Rule(s) and the third respondent is bound to fix the pay of the petitioner under FR-22.B. In this regard, the petitioner made several representations to the third respondent/A.G, but there was no response. Lastly, the petitioner approached the first respondent/Government through this Court by way of representation, dated 23.03.2009, based on which, the first respondent-Government called for remarks from the second respondent-High Court. The second respondent, in turn, called for clarification from the A.G. Subsequently, the second respondent-High Court sent a report to the first respondent-Government, incorporating the remarks of the third respondent/A.G, stating that it is an anomaly which the first respondent-Government had to rectify. The A.G did not give any valid reason or quoted any Rule or authority for his refusal to fix the pay of the petitioner under

FR-22B. The clarification made by the A.G itself is vague and not in accordance with the relevant Rules. The file has been lying with the first respondent-Government for two years without any action and thereafter, the impugned order was passed mechanically without applying mind and also by not analysing the consequences of passing the impugned order. Hence, the petitioner has filed the present Writ Petition for the relief stated supra.

10. The first respondent has filed counter affidavit stating that earlier, fixation of pay of Judicial Officers is governed in the normal course on par with the other Government servants and later on, the FNJPC had been formed, which made its recommendations and the same have also been approved by the Supreme Court by order dated 21.03.2002 in W.P.(C).No.1022 of 1989 (All India Judges Association Vs. Union Of India), reported in 2002 (4) SCC 247. Subsequently, it has been instructed to follow the FNJPC's recommendations. Accordingly, the modality of fixation of pay as per the FNJPC, was issued by the High Court. The revised fixation of scale of pay for the Judicial Officers as per the recommendations of the FNJPC, had been made with effect from 01.07.1996. It was also recommended by the said FNJPC that ACP for the Judicial Officers should be given on completion of every five years, pursuant to which, I ACP & II ACP had been awarded to 360 Judicial Officers in the cadre of Civil Judge (Junior Division) with effect from 01.07.1996 by calculating the notional increments for

earlier years. In some cases, some of the Judicial Officers, who have entered into service as Civil Judge (Junior Division) many years ago, became eligible for awarding I ACP & II ACP much before 01.07.1996 and hence, they had been awarded the ACP scales with effect from the dates on which they became eligible for the said scales of pay. Subsequently, the third respondent/A.G of Tamil Nadu raised objection with reference to the date of awarding I ACP scale of pay, after completion of five years from the date of entry into the cadre of Civil Judge (Junior Division) with monetary benefits from 01.07.1996, by calculating the notional increments for the earlier years, on the ground that the revised scale of pay has come into force only with effect from 01.07.1996 and accordingly, he requested to issue suitable directions to all the officers concerned regarding the correct fixation of pay with effect from 01.07.1996 and it was also further requested by the third respondent/A.G that the scale of pay i.e. Rs.9100-275-14050 had to be downgraded in the scale of pay of Rs.9000-250-10750-300-13150-350-14150 with effect from 01.07.1996 under FR.23 in respect of Civil Judge (Junior Division) and then the pay had to be re-fixed in the I ACP scale of pay with effect from 01.07.1996 under FR-22-B and the subsequent increment had to be sanctioned after completion of one year from the date of ACP fixation.

11. It is also further averred in the counter that as per the aforesaid request, the second respondent-High Court had ordered to award I ACP scale of

pay to the Civil Judge (Junior Division) only with effect from 01.07.1996. While implementing the aforesaid order, certain difficulties arose as to which date be taken into account for awarding II ACP scale of pay to the Civil Judge (Junior Division). Hence, the second respondent-High Court sought clarification from the third respondent/A.G, in response to which, the clarification had been issued for awarding I and II ACP scale of pay, as per which, if the I ACP scale had been awarded prior to 01.07.1996 and the II ACP scale had been awarded after 01.07.1996, the Judicial Officers shall be fixed in the scale of pay of Rs.9000-250-10750-300-13150 with effect from 01.07.1996 under FR-23 as per the FNJPC and then the pay shall be fixed in the I ACP scale of pay of Rs.10750-300-13150-350-14900 with monetary benefit from 01.07.1996 under FR-22-B and then the pay shall be fixed in the II ACP scale of pay of Rs.12850-300-13150-15850 with monetary benefit from 01.07.1996 under FR-22-B and the subsequent increment shall be sanctioned only after completion of continuous service of one year from the date of fixation, i.e. on 01.07.1997 and the other two models had also been prescribed for awarding I and II ACP scale of pay. After the aforesaid proceedings, the pay had been fixed in respect of the Judicial Officers as per the modality given by the A.G and the same had also been implemented by the second respondent-High Court by issuing revised proceedings in R.O.C.No.53/2003/Con.B1, dated 25.04.2008, which has not been

challenged by the petitioner. Similarly, the proceedings of the third respondent-A.G, dated 15.01.2009, a copy of which was also served on the petitioner by the second respondent/High Court, remained unchallenged till date. In view of the same, the fixation of pay in the case of the petitioner is in accordance with law and does not require any interference by this Court.

12. It is also stated in the counter of the first respondent that the petitioner fell under the first category, i.e. awarding of I ACP and II ACP prior to 01.07.1996 and accordingly, his pay had been re-fixed, and initially, the CJM had wrongly understood the recommendations and modality of the third respondent/AG and subsequently, the AG had requested to correct the fixation of pay in respect of the writ petitioner and accordingly, the CJM had re-fixed the scale of the petitioner. The petitioner cannot claim any benefit on the basis of the Sixth Pay Commission, i.e. by G.O.162, Finance (Pay Cell), dated 13.04.1998, as the same became null and void, in view of the implementation of the FNJPC recommendations with effect from 01.07.1996. Further, the petitioner had been awarded Selection Grade in the cadre of Civil Judge (Junior Division) on 10.06.1990 in the pre-revised scale of Rs.3000-100-3500-125-4500 and the corresponding pay was fixed on 01.01.2006 by the second respondent-High Court in the time scale of pay of Rs.10,000-325-15200 and there is no corresponding scale to fix the pay of the petitioner on 01.07.1996 as per

G.O.Ms.No.289, Home (Cts-IA) Department, dated 31.03.2003 and G.O.Ms.No.581, Home (Cts-IA) Department, dated 30.06.2003 based on the recommendations of the FNJPC. The pay of the writ petitioner had been correctly fixed at Rs.12,850/- p.m. with effect from 01.07.1996 in the scale of pay of Rs.12850-300-13150-350-15950. Hence, the petitioner cannot claim anything more than what has been prescribed by the FNJPC. Moreover, the petitioner cannot challenge the cut-off date, i.e. 01.07.1996, which had been prescribed and approved by the Supreme Court of India. The petitioner may not be prejudiced regarding the scale of pay, as he cannot rely upon the earlier Government Order with reference to the fixation of scale of pay after the implementation of the recommendations of the FNJPC. The petitioner cannot claim the benefits in both the modes.

13. It is also stated by the first respondent in the counter that the allegations in the scales of pay of the Civil Judge (Junior Division) under II ACP level, are identical to the ordinary scale for the post of Civil Judge (Senior Division) as per the scheme of the said FNJPC, but the post of Civil Judge-Senior Division (Subordinate Judge) is a post of higher responsibilities than that of the District Munsif and hence, the petitioner continued in the scale of pay of the District Munsif for 5 years, but officiated in the higher post till he became eligible for the I ACP level fixation in the cadre of Sub-Judge (Civil Judge-Senior Division)

in April 2003 and the petitioner cannot contend that his legitimate expectation for further promotion was lost due to the delay caused by the respondents. The second respondent-High Court is not the competent authority to decide the aforesaid issue, as the representation of the petitioner had been forwarded to the Government for consideration and further action, and thereby, the first respondent-Government had considered the representation of the petitioner and confirmed that the pay fixed for the petitioner is correct, which needs no modification, and hence, the impugned order had been passed by the first respondent/Government. The respondent(s) are bound by the recommendations of the FNJPC and hence, more particularly, the first respondent-Government has no say with regard to the contentions raised by the petitioner for fixation of pay. Furthermore, as per the recommendations of the FNJPC and as per the Government Order(s) passed pursuant thereto, the scale of pay of the petitioner had been fixed by the second respondent-High Court, which was confirmed by the third respondent-AG. Hence, for these reasons, the first respondent prayed for dismissal of the Writ Petition.

14. The second respondent-High Court has also filed counter affidavit on the same lines as that of the first respondent, inter-alia stating that the petitioner cannot rely upon the earlier Government Order(s) with reference to the fixation of scale of pay after the implementation of the recommendations of the FNJPC.

The petitioner cannot claim the benefits in both the modes and he cannot go beyond the proceedings/order of the second respondent-High Court in R.O.C.No.53/2003, dated 25.04.2008. Further, the aforesaid proceedings dated 25.04.2008 had not been challenged before any Court of Law and hence, it has become final. The second respondent-High Court is bound by the recommendations of the FNJPC and hence, the second respondent has nothing to do with the contentions of the petitioner regarding the fixation of pay. Therefore, for the above reasons, the second respondent-High Court prayed for dismissal of the Writ Petition.

15. The third respondent-A.G has also filed counter affidavit stating that the petitioner's service as District Munsif was regularised with effect from 10.06.1980 and he was moved to the Selection Grade District Munsif on 10.06.1990. He was then promoted as Civil Judge (Senior Division) on 04.03.1998. Challenging the mode of fixation adopted by the third respondent at the time of implementing the ACP scales of pay as per the recommendations of the FNJPC, vide G.O.Ms.No.289, Home (Cts-IA) Department, dated 31.03.2003 and ACP G.O.Ms.No.581, Home (Cts-IA) Department, dated 30.06.2003, which was introduced with effect from 01.07.1996 in respect of the Judicial Officers of the Government of Tamil Nadu, the petitioner has presented this Writ Petition. As the revised scales of pay based on the recommendations of the FNJPC was

implemented by the Government to the Judicial Officers of the Government of Tamil Nadu with effect from 01.07.1996, the pay scales of 6th Pay Commission implemented by Government for Tamil Nadu for Government employees as per G.O.No.162, Finance (PC) Department, dated 13.04.1998 with effect from 01.01.1996, cannot be applied in respect of the Judicial Officers as on 01.07.1996. The petitioner had been awarded the Selection Grade in Civil Judge (Junior Division) on 10.06.1990 retrospectively as per G.O.162, dated 13.04.1998 being the 6th Pay Commission G.O., vide High Court proceedings in No.6504, dated 06.05.2003, after the implementation of the FNJPC. Hence, the award of Selection Grade becomes null and void and it cannot be acted upon. However, as per G.O.Ms.No.581, Home (Courts-IA) Department, dated 30.06.2003, being the FNJPC G.O., the petitioner had been awarded I ACP on 10.06.1985 (i.e) on completion of five years from the date of promotion as District Munsif on 10.06.1980 and the II ACP being awarded on 10.06.1990 (i.e.) on completion of another five years of continuous service in the Civil Judge I Stage ACP scale. The scales of pay, vide G.O.Ms.No.289 (para 4), dated 31.03.2003 of Home (Courts-IA) Department and ACP scheme G.O.(Ms).No.581 (para 7), Home (Courts-IA) Department, dated 30.06.2003, as per the FNJPC, are as follows:

- (i) Civil Judge (Junior Division) -- Rs.9000-250-10750-300-13150;

(ii) I Stage ACP scale (on completion of 5 years) of service as Civil Judge (Junior Division) -- Rs.10750-300-13150-350-14900;

(iii) II Stage ACP scale (on completion of another 5 years of service as I Stage ACP scale) -- Rs.12850-300-13150-350-15950-400-17550.

(iv) As per para 4 of G.O.Ms.No.289 read with para 8 of G.O.(Ms).No.581, the scale of pay of Civil Judge (Senior Division) in the promoted post is Rs.12850-300-13150-350-15950-400-17550, which is identical to that of II Stage ACP scale of pay of Civil Judge (Junior Division) as stated above.

(v) On completion of five years of service as Civil Judge (Senior Division), the Judicial Officers can be moved to I Stage ACP Civil Judge (Senior Division) in the scale of pay of Rs.14200-350-15950-400-18350.

16. It is the further averment of the third respondent/AG in the counter that the petitioner moved to ACP scales as per the recommendations of the FNJPC, as follows:

Date of appointment as Civil Judge (Junior Division) on 10.06.1980.

I Stage ACP Civil Judge (Junior Division) on 10.06.1985.

II Stage ACP Civil Judge (Junior Division) on 10.06.1990.

Promoted as Civil Judge (Senior Division) on 04.03.1998.

I Stage ACP Civil Judge (Senior Division) on 04.03.2003.

As per the revised proceedings/order in R.O.C.No.53/2003/Con.B1, dated 25.04.2008 of the second respondent-Registrar General of this Court, the mode of fixation of pay of the Judicial Officers is as per the FNJPC G.O.Ms.No.289 and ACP G.O.(Ms).No.581. Para (i) of the clarification issued in page 3 of the said proceedings of this Court, dated 25.04.2008, reads as follows:

"(i) If the I ACP is awarded prior to 01.07.1996, i.e. on 06.10.1983 and the II ACP awarded prior to 01.07.1996, i.e. on 06.10.1988, the pay shall be fixed in the scale of pay of Rs.9000-250-10750-300-13150 with effect from 01.07.1996 under FR.23 as per National Judicial Pay Commission and then the pay shall be fixed in the I ACP scale of pay of Rs.10750-300-13150-350-14900 with monetary benefit from 01.07.1996 under FR.22-B and then the pay shall be fixed in the II ACP scale of pay of Rs.12850-300-13150-15850 with monetary benefit from 01.07.1996 under FR-22B and the subsequent increment shall be sanctioned only after completion of continuous service of one year from the date of fixation (i.e.) on 01.07.1997"

17. By adopting the above method of fixation, the pay of the petitioner had been fixed on 01.07.1996 as per the FNJPC G.O.Ms.No.289 and ACP G.O.Ms.No.581 as mentioned below, by regulating his pay in the ordinary Grade of Civil Judge (Junior Division), since the Selection Grade awarded to him as per

6th Pay Commission G.O.162, after the introduction of the FNJPC G.O.Ms.No.289, becomes null and void. On 01.01.1996, his pay should be fixed in the ordinary grade scale of Civil Judge (Junior Division) scale of pay of Rs.9100-275-14050, but for his Selection Grade as per the 6th Pay Commission G.O.162:

<i>Date</i>	<i>G.O. No.</i>	<i>Scale of pay</i>
01.01.1996	G.O.162 (6th Pay Commission)	11025 (9100-275-14050)
01.07.1996	Regular increment	11300
01.07.1996	G.O.289 (FNJPC) FR23	11350 (9000-250-10750-300-13150)
01.07.1996	I ACP (FR 22-B)	11950 (10750-300-13150-350-14900)
01.07.1996	II ACP (FR 22-B)	12850 (12850-300-13150-400-17550)
01.07.1997	Annual Increment	13150 (12850--17550)

Thus, the petitioner's pay is fixed correctly as per FNJPC recommendations, on 01.07.1996, as per the guidelines issued by the Registrar General, vide revised proceedings dated 25.04.2008.

18. With regard to the claim for fixation benefit for petitioner's further promotion to Civil Judge (Senior Division) on 04.03.1998, it is the stand of the third respondent-AG in the counter that as the scales of pay of the lower post of II ACP Civil Judge (Junior Division) and Civil Judge (Senior Division) as per the FNJPC, are identical as per the ACP scheme of the Central Government, the financial benefit allowed under ACP scheme shall be final and no fixation benefit

shall accrue at the time of regular promotion to the same scale of pay, and no fixation of pay is to be allowed at the time of promotion to the post carrying the same scale of pay as that of ACP scale and the same had also been intimated to the Government, vide letter dated 01.03.2007 and the Government also confirmed the same. The third respondent/A.G's office is vested with the authority of regulating the pay of the Judicial Officers as per various Government Orders and clarifications issued by the Government of Tamil Nadu from time to time. The remarks regarding the mode of fixation under the ACP scheme in respect of the Judicial Officers, had been communicated, vide the third respondent-A.G's office D.O. Letter dated 31.03.2008, which was accepted by the Government, vide Letter dated 02.03.2009.

19. With regard to the claim of the petitioner regarding his junior getting more pay on 09.03.1998 on his promotion as Civil Judge (Senior Division), it is the averment of the third respondent/AG in the counter that the petitioner's junior had acquired higher qualification of ML Degree on 24.05.1997, whereas the petitioner being the senior, acquired the same on 10.06.1995 itself, before the introduction of the 6th Pay Commission, which resulted in higher pay to his junior. Hence, the third respondent addressed to the Departmental Officer, namely the Registrar General, High Court, Madras, vide proceedings dated 28.12.2008 to scrutinise the Service Registers of both the petitioner and his

junior and set right the anomaly, if it is found correct or otherwise, and send necessary proposals to the third respondent for further necessary action. Thus, the third respondent prayed to pass appropriate orders in this Writ Petition.

20. When the Writ Petition is taken up for hearing, the learned counsel for the petitioner made detailed submissions by adverting to the averments made in the affidavit filed in support of the Writ Petition and contended that as per the provisions in FR.22(1)(b) read with FR 22-B, the petitioner, on his promotion as Civil Judge (Senior Division) with effect from 04.03.1998, is entitled to have his pay re-fixed with monetary benefits, which was not given to the petitioner. Further, Ruling No.8 in FR.22-B provides that even where the existing pay scale and pay scale of promoted post are identical, a pay fixation shall be given to the next higher level. In this regard, the petitioner made a representation to the first respondent-Government through the second respondent-High Court to redress the anomaly in the pay scale of the petitioner. On the objection of the third respondent, the petitioner's claim on both the aspects, was rejected under the impugned order dated 08.03.2011.

21. The learned counsel for the petitioner further submitted that by G.O.Ms.No.771, Home (Courts IA) Department, dated 09.09.2009, the Government had directed to add 10% of the pre-revised pay drawn to the pay to be fixed under G.O.No.162, Finance (Pay Cell) Department, dated 13.04.1998

with effect from 01.01.1996. While implementing the same, during the pendency of the present Writ Petition, the petitioner's pay at II ACP level was revised and his pay from 01.07.1996 was fixed at Rs.13,150/- and his pay as on 01.07.1997 was fixed at Rs.13,500/-. In view of the same, the first part of the prayer in the present Writ Petition seeking fixation and granting ACP-II at Rs.13,150/- stands complied with. But the pay fixation sought for in respect of his promotion under FR-22-B and rejection of the same, had not been redressed.

22. The learned counsel for the petitioner further submitted that the only reason adduced by the third respondent-AG, vide their reply letter dated 05.05.2009 is that the fixation sought for could not be granted because the II ACP level pay of the Civil Judge (Junior Division) and the ordinary pay in Civil Judge (Senior Division) are identical and that a clarification was sought for from the first respondent on that aspect. Further, in implementing the judicial pay, it is found that no where the benefit conferred under the FR was dispensed with and on the other hand, the provisions of the FR are explicitly amended to the effect that even in the case of identical pay scales, the Government servants, on promotion to a higher post, shall be given a pay fixation to the next higher stage. The petitioner, having got his promotion as Sub-Judge (Civil Judge-Senior Division) at the 18th year of his service, had been denied a pay benefit on due promotion and has been compelled to draw the pay of the District Munsif (Civil

Judge-Junior Division) for the next five years by virtue of the impugned order, though he was officiating in the higher post of Civil Judge (Senior Division), admittedly with higher responsibilities. The contentions of the petitioner are supported by the decision of the Apex Court reported in 2010 (6) SCC 419 (Union of India Vs. B.Anil Kumar), wherein the Supreme Court observed that on promotion to a post carrying duties and responsibilities of greater importance, a Government servant is entitled to his initial pay "in the time scale of the higher post". It was held by the Supreme Court in the said decision as follows:

"18. The contention of the appellants, however, is that the respondents, who were Investigators as on 1.1.1986 and were promoted to the post of Assistant Superintendent after 1.1.1986, would not be covered under Rule 7(1)(B) of the 1986 Rules and that on such promotion their pay would be fixed under FR 22(1)(a)(1), the relevant portion of which is quoted hereinbelow:

"22(1). The initial pay of a government servant who is appointed to a post on a timescale of pay is regulated as follows:--

(a)(1) Where a government servant holding a post, other than a tenure post, in a substantive or temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity, as the case may be, subject to the fulfilment of the eligibility conditions as prescribed in the relevant recruitment rules, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his

initial pay in the timescale of the higher post shall be fixed at the stage next above the notional pay arrived at by increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued or rupees twenty-five only (now Rs.100), whichever is more."

19. A plain reading of FR 22(1)(a)(1), quoted above, would show that where a government servant holding a post is promoted to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, "his initial pay in the timescale of the higher post" shall be fixed at the stage next above the notional pay arrived at by increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued. Thus, on promotion to a post carrying duties and responsibilities of greater importance, a government servant is entitled to his initial pay "in the timescale of the higher post".

23. Therefore, the learned counsel for the petitioner prayed that the impugned order on that score is not sustainable in law and the same is liable to be set aside and the petitioner is entitled for pay fixation as given below, and as the petitioner had given option for fixation of pay from the date of accrual of next increment in the lower post, the fixation should be from the date of next increment:

Pay as on 04.03.1998 (date of promotion)	Rs.13,500/- (as approved by the third respondent)
Next increment on 01.07.1998	Rs.13,850/- (with increment)

So, fixation to be made from : 01.07.1998

Pay in the lower post : Rs.13,850/-

Add 5% : Rs.693 (as per FR-22-B)

Total : Rs.14,543

Stage next above : Rs.14,900/- (fixation sought for)

Pay has to be fixed at : Rs.14,900/-

24. Thus, the learned counsel for the petitioner submitted that the first part of the prayer sought for in the Writ Petition had been implemented and the second part sought for fixation of further pay on promotion under FR 22(1)(a)(i) r/w 22-B with option to have fixation in the promoted post on 01.07.1998 (the date of accrual of next increment), with all other consequential attendant benefits like interest for delay, etc., within the time that may be stipulated by this Court, may be granted.

25. Countering the above submissions, the learned Special Government Pleader appearing for the first respondent and the learned Standing Counsel appearing for the second respondent-High Court contended that the representation of the petitioner with regard to the pay fixation, had been forwarded to the Government for consideration and further action, and the Government had considered the representation of the petitioner and confirmed

that the fixation of pay of the petitioner is correct, which needs no modification. It is further contended by the learned Special Government appearing for the first respondent-Government and the learned Standing Counsel appearing for the second respondent-High Court that it is incorrect on the part of the petitioner to contend that his fixation of pay from 01.07.1996 had not been properly considered; the view of the third respondent/AG is erroneous; the provisions of FR-22-B had not been properly considered; the petitioner's representation in that regard had not been considered in proper perspective and that the petitioner's legitimate expectation for further promotion was lost due to the delay caused by the respondents.

26. The learned counsel appearing for the third respondent-AG contended that the revised scales of pay based on the recommendations of the FNJPC, were implemented by the Government to the Judicial Officers of the Tamil Nadu with effect from 01.07.1996 and the pay scale of 6th Pay Commission was implemented by the Government for Tamil Nadu Government employees as per G.O.No.162, Finance (PC) Department, dated 13.04.1998 with effect from 01.01.1996, which cannot be applied in respect of the Judicial Officers as on 01.07.1996. Further, as per G.O.Ms.No.581, being the FNJPC G.O., the petitioner had been awarded I ACP on 10.06.1985, i.e. on completion of 5 years from the date of promotion as District Munsif on 10.06.1980 and II ACP on 10.06.1990,

i.e. on completion of another 5 years of continuous service in the Civil Judge I Stage ACP scale.

27. It is further contended by the learned counsel appearing for the third respondent/AG that the pay of the petitioner was fixed based on the revised proceedings/order in R.O.C.No.53/2003/Con.B1, dated 25.04.2008 issued by the second respondent- Registrar General of this Court, which is based on FNJPC G.O.Ms.No.289 and also as per ACP G.O.Ms.No.581. As per para (i) of the clarification in page 3 of the said proceedings dated 25.04.2008, if the I ACP is awarded prior to 01.07.1996, i.e. on 06.10.1983 and the II ACP is awarded prior to 01.07.1996, i.e. on 06.10.1988, the pay shall be fixed in the scale of pay of Rs.9000-250-10750-300-13150 with effect from 01.07.1996 under FR.23 as per the FNJPC recommendations and then the pay shall be fixed in the I ACP scale of Rs.10750-300-13150-350-14900 with monetary benefits from 01.07.1996 under FR-22-B and then the pay shall be fixed in the II ACP scale of pay of Rs.12850-300-13150-15850 with monetary benefits from 01.07.1996 under FR.22-B and the subsequent increment shall be sanctioned only after completion of continuous service of one year from the date of fixation (i.e) on 01.07.1997.

28. The learned counsel appearing for the third respondent contended that by adopting the above method of fixation, the pay of the petitioner had been fixed on 01.07.1996 as per the FNJPC recommendations G.O.Ms.No.289

and ACP G.O.(Ms).No.581 by regulating his pay in the ordinary grade of Civil Judge (Junior Division), since the Selection Grade awarded to him as per 6th Pay Commission G.O.162, after the introduction of the FNJPC G.O.289, becomes null and void. Moreover, the petitioner's pay is fixed as per the recommendations of the FNJPC on 01.07.1996 as per the guidelines issued by the second respondent-Registrar General of this Court, vide the said proceedings dated 25.04.2008.

29. Regarding the claim of the petitioner for fixation of pay benefits for his further promotion to the cadre of Civil Judge (Senior Division) on 04.03.1998, it is contended by the learned counsel for the third respondent that as the scales of pay of the lower post of II ACP Civil Judge (Junior Division) and Civil Judge (Senior Division) as per the said FNJPC recommendations, are identical and as per the ACP scheme of the Central Government, the financial benefit allowed under ACP scheme shall be final and no fixation benefit shall accrue at the time of regular promotion to the same scale of pay and no fixation of pay is to be allowed at the time of promotion to the post carrying the same scale of pay as that of ACP scale and the same had also been intimated to the Government, vide letter dated 01.03.2007 and the Government also confirmed the same.

30. The learned counsel appearing for the third respondent further contended that the third respondent-AG's office is vested with the authority of regulating the pay of the Judicial Officers as per various Government Orders and

clarifications issued by the Government of Tamil Nadu from time to time and that the remarks regarding the mode of fixation under ACP scheme in respect of the Judicial Officers have been communicated, vide the D.O. Letter dated 31.03.2008 of the third respondent, which was accepted by the Government, vide letter dated 02.03.2009.

31. Hence, contending that the pay of the petitioner has been rightly fixed, all the respondents prayed for dismissal of the Writ Petition.

32. Heard both sides, considered the submissions made on either side keeping in mind the same and also perused the materials available on record.

33. In the case on hand, the petitioner relies on FR.22.B read with Ruling 8 therein, in order to fix his pay. Hence, it is useful to extract FR-22.B read with Ruling 8 therein, as follows:

"FR 22-B. Notwithstanding anything contained in these rules, where a Government servant holding a post in a substantive or officiating capacity, is promoted or appointed in a substantive or officiating capacity, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the timescale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment, at the stage at which such pay has accrued. If the monetary benefit after such fixation falls short of five per cent of the pay drawn in the lower post, his pay in higher post shall be so fixed, allowing a minimum increase of five per cent of the pay drawn in the lower post. Where the pay drawn in the lower post on the date of promotion or appointment plus five per cent of the pay drawn in the lower post is a stage in the time-scale of pay of the higher post, the pay shall be fixed at such stage in the time-scale of pay of the higher post. Where the pay drawn in the lower post on the date of promotion or appointment plus five per cent of the pay drawn in the lower post exceeds the amount arrived at for fixation of pay in the higher post under this rule but where there is no corresponding stage in the time-scale of pay of the higher post, the pay shall be fixed at the next higher stage in the time-scale of pay of the higher post.

[G.O. Ms. No. 778, Personnel and Administrative Reforms (FR.III), dated 8th August 1986-with effect from 1st October 1984.]

Provided that no fixation of pay under this rule shall be made in the case of a Government servant, who has opted for fixation of pay under rule 22(1) (a) (i) or

under rule 22(1) (b) (i) read with rule 22(1)(a)(i), within 15 days from the date of receipt of the orders of promotion:

Provided further that the provisions of rule 22(1)(b)(i) shall not be applicable to a case where the initial pay has been fixed under this rule F.R.22-B:

Provided also that where a Government servant, who had not drawn stagnation allowance, before his promotion or appointment to a higher post, is drawing pay at the maximum of the time-scale of pay applicable to the lower post, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment above the maximum of the lower post equivalent to the amount of the last increment in that scale.

[G.O.Ms. No. 975, Finance (FR.I), dated 10th July 1974.]

Provided also that where a Government servant is promoted or appointed to a higher post, the maximum of the scale of pay up to which stagnation increment is admissible and where the pay plus notional increment in the lower post exceeds the maximum of the time-scale of pay of the higher post, pay shall be fixed at a stage that is admissible under this rule and the other provisions thereunder, by increasing the maximum of the time scale of pay of the higher post by stages equivalent to the amount of last increment:

Provided also that where the pay so arrived at under this rule exceeds the maximum limit upto which stagnation increment is admissible, pay shall be fixed at the stage in the time-scale of pay of the higher post next below such maximum limit upto which the stagnation increment is admissible and the difference between the stage at which pay is fixed and the maximum limit upto which stagnation increment is admissible, shall be allowed as 'personal pay.' The 'personal pay' shall be treated as pay for all purposes and shall be allowed to continue till the incumbent vacates the post:

Provided also that where the maximum of the scale of pay of the higher post exceeds the maximum limit upto which stagnation increment is admissible, pay shall be fixed under this rule not exceeding the maximum of the time scale of pay of the higher post:

[G.O. Ms. No. 476, Personnel and Administrative Reforms (FR.Special) Department, dated 19th November 1990-with effect from 1st October 1978.]

Provided also that where a Government servant gets promotion or appointment to a higher post even before reaching the maximum of the time-scale of pay of the lower post and if the fixation arrived at under this rule (including five per cent benefit) exceeds the maximum of the time-scale of pay of the higher post, then, subject to the provisions contained in the fifth and sixth provisos above, pay shall be fixed by increasing the maximum of the time-scale of pay of the higher post by stages equivalent to the amount of last stage in that post:

[G.O. Ms. No. 292, Personnel and Administrative Reforms (FR.IV) Department, dated the 15th December 1998 - with effect from 1st June 1988.]

Provided also that where a Government servant is promoted or appointed to a higher post involving the assumption of duties and responsibilities of greater importance than those attaching to the post held by him, option shall be given:

(i) for fixation of pay under this rule on the date of promotion or appointment, taking into account, the pay in the lower post immediately prior to promotion or appointment to the higher post without any further review on accrual of increment in the time-scale of pay of the lower post,

Or

(ii) for fixation of pay on the date of promotion or appointment to the higher post in the manner as provided in rule 22 (1) (a) (i) or rule 22 (1) (b) (i) and for re-fixation of pay under this rule on the date of accrual of next increment in the time-scale of pay of the lower post. Such option shall be exercised within a period of one month from the date of promotion or appointment. The option once exercised shall be final. If no such option is exercised within the said period of one month, the pay shall be fixed in the manner as provided in clause (i) above. If the pay is fixed in the manner as provided in clause (ii) above, next increment shall be allowed on

completion of the required qualifying period of one year with effect from the date of re-fixation of pay.

[G.O. Ms. No. 830, Personnel and Administrative Reforms (F.R.III), dated 2nd September 1983 — With effect from 1st May 1981.]

Provided that if a Government servant has previously held substantively or officiated in— (i) the same post, or

(ii) a permanent or temporary post on the same time-scale, or

(iii) a permanent post on an identical time-scale or a temporary post on an identical time-scale, such post being on the same time-scale as a permanent post then the initial pay shall not be less than the pay other than special pay, personal pay or emoluments classed as pay by Government under rule 9 (21) (a) (iii) which he drew on the last such occasion and he shall count the period during which he drew that pay on such last occasion and any previous occasions, for increment in the stage of the time-scale equivalent to that pay. If, however, the pay last drawn by the Government servant in a temporary post has been inflated by the grant of premature increments, the pay which he would have drawn but for the grant of those increments shall, unless otherwise ordered by the authority competent to create the new post, be taken for the purposes of the proviso to be, the pay which he last drew in the temporary post.

[G.O. Ms. No. 1744, Finance, dated 21st November 1969.]

Rulings under FR-22-B

.. ..

(8) When the Government servant is promoted/appointed to a higher post from Selection Grade of the lower post carrying identical scale of pay as the ordinary grade of such higher post, the pay of the Government servant shall be fixed either under rule 22-B with reference to the notional pay in the ordinary grade of the lower post on the date of promotion/appointment to the higher post with 5% increase of pay with reference to such notional pay or at the stage in the ordinary grade of the higher post after adding one notional increment to the pay drawn in the Selection Grade scale of the lower post at his option. The option shall be exercised within one month from the date of promotion/appointment, and, if no option is exercised within the period the pay of the Government servant shall be fixed at the stage in the ordinary grade of the higher post equal to the pay after adding one notional increment to the pay drawn in the Selection Grade scale of the lower post.

[Vide G.O. Ms. No. 218, P&AR (FR.III), dated 13th March 1987—with notional effect from 1-10-84 and with monetary benefit on 1-4-1986.]

The above mode of fixation of pay shall be followed in the case of Government servants holding Special Temporary Posts, on their subsequent regular promotion to such posts on identical time-scale of pay. The option shall be exercised within one month from the date of regular promotion/appointment, and, if no option is exercised within the period, the pay of the Government servant shall be fixed at the stage in the ordinary grade of the higher post equal to the pay after adding one notional increment to the pay drawn in the Special Temporary post

[G.O. Ms. No. 555, Personnel and Administrative Reforms (FR.II) Department, dated 5th October 1989.] (With effect from 1st October, 1984 with monetary benefit on and from the 1st April, 1986)."

34. On a reading of the above extracted FR.22.B read with Ruling 8 therein, it is crystal clear that the petitioner, on his promotion as Civil Judge (Senior Division) on 04.3.1998, is entitled to have his pay re-fixed with monetary benefits which was not given to the petitioner. Ruling 8 in FR.22.B provides that even where the existing pay scale and pay scale of promoted post, are identical, the pay fixation shall be given to the next higher level.

35. Therefore, we are of the opinion that the stand of the third respondent denying the regular promotion benefits, citing the benefit given under ACP scheme, is not correct. The petitioner is entitled for the regular promotional benefits as available to the Government servants under the Tamil Nadu Government Fundamental Rules (FR). The benefits under ACP scheme has nothing to do with the regular promotional benefits, and therefore, the petitioner is entitled for the benefits conferred under FR-22-B and Ruling 8 therein.

36. Now, the third respondent-AG is misconstruing the benefits accrued to the petitioner under FR-22-B read with Ruling 8 therein quoted above. The impugned order had been passed only on the ground that the petitioner has already availed the benefit under ACP scheme and hence, he is not entitled for regular promotion, which is not sustainable.

37. Hence, for the above reasons:

(a) The impugned order insofar as it relates to the II part of the prayer sought for by the petitioner is concerned, is quashed.

(b) The Writ Petition is partly allowed as prayed for.

(c) The first part of the prayer made in the Writ Petition, has already been complied with by the respondents.

(d) As far as the second part of the prayer of the petitioner, relating to fixation of the petitioner's further pay on promotion under FR 22(1)(a)(i) read with 22-B with option to have the fixation in the promoted post on 01.07.1998 (the date of accrual of next increment) with all other consequential attendant benefits like interest for the delay, etc., is concerned, the respondents shall implement the above second part of the prayer of the petitioner within a period of eight weeks from the date of receipt of a copy of this order, and accordingly, fix the pay along with interest from the date on which the amount became due till the date of payment at 7.5% per annum. No costs.

(R.P.S.J) (C.S.N.J)

5.09.2019

Index: Yes/no
Speaking Order: Yes
cs

To

1. The Government of Tamil Nadu,
Rep. by the Secretary to Government,
Home Department, Secretariat,
Chennai-600 009.
2. The Registrar General,
High Court of Madras,
Chennai-600 104.
3. The Accountant General (A & E) Tamil Nadu,
361, Anna Salai,
Chennai-600 018.



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W.P.No.10499 of 2011

R.SUBBIAH, J

and

C.SARAVANAN, J

CS



Order
in
W.P.No.10499 of 2011

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5.09.2019