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W.A.Nos.27 and 42 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**W.A.Nos.27 and 42 of 2025
and
C.M.P.Nos.173 and 288 of 2025**

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Social Welfare and Nutrients Food Department,
Fort St.George,
Chennai - 600 009.

2. The Director,
Public Health and Preventive Medicine,
DMS Compound,
No.359, Anna Salai,
Chennai - 600 006.

... Appellants 1 & 2
in both W.As

3. The Deputy Director of Health Services,
GH Compound,
Madurai - 625 014.

... 3rd Appellant
in W.A.No.27 of 2025

4. The Deputy Director of Health Services,
Mettivelaikara Street,
Near Fire Service Police Station,
Old GH Compound,
Thiruvavarur - 610 001.

... 3rd Appellant
in W.A.No.42 of 2025



W.A.Nos.27 and 42 of 2025

-Vs-

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S.R.Sivakumar
S/o.S.S.Ramakrishnan

... Respondent
in W.A.No.27 of 2025

S.Nepolian
S/o.A.Shanmugarajan

... Respondent
in W.A.No.42 of 2025

COMMON PRAYER : Appeals filed under Clause 15 of Letters Patent, to set aside the order in W.P.No.5589 and 5588 of 2017 dated 23.08.2023 and allow the above writ appeal.

For Appellants : Mrs.M.Sneha
in both W.As Special Counsel (Health and Family
Welfare Department)

For Respondents : Mr.R.Venkatavaradhan
in both W.As

COMMON JUDGMENT

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

Since these writ appeals had been directed against the orders passed by the writ Court made in W.P.Nos.5589 and 5588 of 2017 dated 23.08.2023 of course by separate orders by the writ Court and the issue raised in both these writ petitions is one and the same, both these writ appeals were heard together at the admission stage and disposed of by this common order.



W.A.Nos.27 and 42 of 2025

2. That the respondents herein, in both the writ petitions who are the respective writ petitioners, are differently abled persons and they had been appointed in the year 2003 by virtue of G.O(Ms)No.83 dated 04.07.2003 as Junior Assistants at the appellant Department. They joined in services on 11.07.2003 and since then, they had been working with consolidated pay of Rs.4,000/- and Rs.3,500/- respectively.

3. Like these writ petitioners, several other people who are also differently abled persons had been appointed at various Departments and had been working in consolidated pay, therefore, on behalf of these differently abled persons, the Association has given representation to the Chief Minister of the State to bring them under regular time scale of pay to regularize their services with all service benefits. This seems to have taken place on 19.08.2008, pursuant to which, the State Government had taken a policy decision and issued a Government Order in G.O.(Ms)No.151, Social Welfare and Nutritious Meal Programme Department dated 16.10.2008. The import of the Government Order which is in Tamil is extracted hereunder for better understanding of the issue

"ஆணை:

தமிழ்நாடு உடல் ஊனமுற்றோர் சங்கங்களின்



WEB COPY



W.A.Nos.27 and 42 of 2025

கூட்டமைப்பின் நிர்வாகிகள் முதலமைச்சர் அவர்களை தலைமைச் செயலகத்தில் 19-08-2008 அன்று சந்தித்து, தங்களது கோரிக்கைகளை அளித்தார்கள். அப்போது ஊனமுற்றோர் சங்கங்களின் கூட்டமைப்பின் கோரிக்கைகளை கனிவுடன் பரிசீலித்து பெரும்பாலான கோரிக்கைகளை ஏற்று உரிய நடவடிக்கைகள் மேற்கொள்ளப்பட்டு அரசாணைகள் வெளியிடப்படும் என்று மாண்புமிகு முதலமைச்சர் அவர்கள் அறிவித்தார்கள். தமிழக அரசின் பல்வேறு துறைகளில் இரண்டாண்டுக்கு மேல் தொகுப்பூதியத்தின்கீழ் பணியாற்றி வரும் ஊனமுற்றோருக்கு காலமுறை ஊதியம் வழங்கப்படும் என்ற அறிவிப்பும் அதில் ஒன்றாகும். தமிழக அரசின் பல்வேறு துறைகளில் இரண்டாண்டுகளுக்கு மேல் தொகுப்பூதியத்தின் கீழ் பணியாற்றி வரும் ஊனமுற்றோருக்கு காலமுறை ஊதியம் வழங்கப்படும் என்ற மாண்புமிகு முதலமைச்சரின் அறிவிப்பின் மீது உரிய ஆணைகள் வெளியிடுமாறு முதன்மைச் செயலாளர் / ஊனமுற்றோருக்கான மாநில ஆணையர் அரசை கோரியுள்ளார்.

2. முதன்மைச் செயலாளர் / ஊனமுற்றோருக்கான மாநில ஆணையரின் கருத்துருவை கவனமாகப் பரிசீலித்த பின்னர் தமிழக அரசின் பல்வேறு துறைகளில் இரண்டாண்டுகளுக்கு மேல் தொகுப்பூதியத்தின்கீழ் பணியாற்றி வரும் ஊனமுற்றோருக்கு காலமுறை ஊதியம் வழங்க அரசு ஆணையிடுகிறது.



W.A.Nos.27 and 42 of 2025

3. அனைத்துத்துறைத் தலைவர்களும் இவ்வாணையை தவறாது பின்பற்றுமாறும் இவ்வாணையின்படி தொகுப்பூதியத்திலிருந்து காலமுறை ஊதியத்திற்கு கொண்டு வரப்படும் ஊனமுற்றோர் சார்பாக ஏதேனும் விதிகள் தளர்வு செய்யப்பட வேண்டுமாயின் அந்தந்த துறைத் தலைவர்கள் அந்தந்த தலைமைச் செயலக நிர்வாக துறைகளின் ஒப்புதல் பெற்று, பின்னர் அவர்களின் பணியை வான்முறைப்படுத்திக் (Regularize) கொள்ளுமாறும் கேட்டுக் கொள்ளப்படுகிறார்கள்."

4. The translated version of the Government Order reads thus:

"ORDER:

Association Leaders for Differently Abled of Tamil Nadu has met Chief Minister and represented their Grievances at Secretariat on 19.08.2008. Consequently, the Chief Minister has assured that major Grievances will be taken into consideration and necessary Government Orders will be issued. Among other demands, absorbing Differently Abled Persons who work in Consolidated Pay for more than Two Years into Regular Time Scale of Pay is also one amongst the Announcements made by the Chief Minister. The Principal Secretary / Commissioner of Differently Abled has requested the Government to issue suitable Government Orders on the announcement of Chief



WEB COPY



W.A.Nos.27 and 42 of 2025

Minister that Differently Abled Persons who work in Consolidated Pay for more Than Two Years in various Departments under Government of Tamil Nadu will be absorbed into Regular Time Scale of Pay.

2. After careful examination of proposal given by the Principal Secretary / Commissioner of Differently Abled, the Government have issued orders to absorb the Differently Abled Persons who work in Consolidated Pay for more than Two Years in various Departments in Government of Tamil Nadu under Regular Time Scale of Pay.

3. All Heads of Departments are requested to adhere this Government Order scrupulously in the first instance, and get relaxation orders in respect of the Differently Abled Persons while absorbing them into Regular Time Scale of Pay in the required cases in consultation with concerned Administrative Department of the Secretariat and thereafter to regularize the Services of the absorbed candidates."

5. As per G.O.(Ms)No.151, those differently abled persons working in various Departments on consolidated pay for more than two years would be brought under time scale of pay and their services would be regularised.



W.A.Nos.27 and 42 of 2025

6. That is the import of the Government Order, based on which, the services of these respondents / writ petitioners had been brought under regular time scale of pay from the date of the Government Order i.e., 16.10.2008 and they become eligible to get such time scale of pay from 21.10.2010, the date on which the date has been fixed by the appellant Department through the proceedings issued in this regard.

7. Challenging such proceedings issued by the appellants, whereby the date of bringing them under regular time scale of pay as well as the pay benefits accordingly to be allowed was given to these respondents / writ petitioners from a subsequent date. The writ petitioners challenging those orders had approached this Court by filing the respective writ petitions.

8. The writ Court heard the said matter and passed separate orders on the same day i.e., on 23.08.2023 as the issue is one and the same and the facts are similar. The order of the writ Court made in W.P.No.5589 of 2017 dated 23.08.2023 is traversed herein.

9. The writ Court having gone through the import of G.O.(Ms)No.151 by extracting the relevant portion, i.e., paragraph 8 of the impugned orders has given the following findings:



"9. A clear reading of the said G.O shows that on completion of two years of continuous service those who have been in consolidated pay should be brought into regular service. There cannot be any further interpretation. There is no ambiguity in the order. The Government Order is clear and the wordings are straight forward.

10. However, it is seen from the impugned order, which is challenged in the present writ petition that the petitioner had been brought into regular service only on 21.07.2010. There is no rationale behind that particular aspect. Even if it has to be considered that they cannot be brought into regular service on and from issuance of G.O.(Ms).No.151, it is seen that the petitioner had been brought into regular service on and from 16.10.2008. That is prejudicial to the petitioner herein since the petitioner had completed two years of service in the year 2005.

11. The wordings in the Government Order is that those who are physically challenged and those who had completed two years of service on consolidated pay should be regularized if there are no other adverse remarks. There is no stand taken by the respondents that there are any adverse remarks against the the petitioner herein. "

10. By giving such an interpretation and by following so, the writ Court has allowed the writ petitions, as against which, the present appeals have been



W.A.Nos.27 and 42 of 2025

WEB COPY

directed.

11. Assailing the said impugned orders passed by the writ Court, Mrs.M.Sneha, learned Special Counsel for Health and Family Welfare Department appearing for the appellants would contend that, though it is a policy decision taken by the Government to approve those differently abled persons who have been working in consolidated pay for more than two years under the regular time scale of pay, that request since had been made only in the year 2008 before the Head of the Government and the policy decision only thereafter had been taken and it has been issued by the Government in G.O.(Ms)No.151 dated 16.10.2008, such date shall be taken into account for the purpose of calculating two years period, therefore, those who have completed two years with effect from the date on 16.10.2008 alone would be entitled to get the benefit on regular time scale of pay and all other corresponding service benefits, therefore they cannot be given retrospective effect as if that the incumbents are entitled to get such benefits retrospectively from the date of their initial appointment of course on consolidated pay, therefore, such an interpretation given by the learned Judge is erroneous, hence, the learned counsel seeks indulgence of this Court.

12. We have heard Mr.R.Venkatavaradhan, learned counsel appearing for



W.A.Nos.27 and 42 of 2025

the respondents also.

WEB COPY

13. We have gone through the import of G.O.(Ms)No.151 and the wordings both in Tamil and English which have been extracted herein above. The exact policy decision that has been taken by the Government reads that, the Government have issued orders to absorb the differently abled persons who are working under the consolidated pay for more than two years in various Departments in Government of Tamil Nadu under regular time scale of pay.

14. Therefore, those who have been working in consolidated pay for more than two years would become eligible to get such benefits on regular time scale of pay, is only the import of the Government Order.

15. Nowhere in G.O.(Ms)No.151, it is stated that, those who have been working under consolidated pay for more than two years would be eligible to get the regular time scale of pay with effect from the date of issuance of the Government Order or any subsequent date to be fixed by the Government through the Government Order. In the absence of any such wordings in the Government Order, the Government while taking the policy decision has made clear that, all those differently abled persons who have been working in consolidated pay at various Departments of the Government of Tamil Nadu for



W.A.Nos.27 and 42 of 2025

more than two years would be eligible to be brought under regular time scale of pay, therefore, if such being the decision of the Government Order which reflects the policy decision taken by the Government, the present appellant Department cannot seek for any different interpretation from this Court.

16. This stand has been clearly made by the learned Judge in paragraph No.9 of the order impugned, where the learned Judge has held that, there cannot be any further interpretation as there is no ambiguity in the Government Order and the Government Order is clear and the wordings are straight forward.

17. We do not find any infirmity in the view expressed by the learned Judge in the impugned order. Since the import of the Government Order only mandates that, the Government or Head of the Department who gives such benefits bringing them under regular time scale of pay on completion of two years shall extend the benefit from the date of initial appointment or completion of two years and such a direction had also been given in paragraph No.3 of the said G.O.(Ms)No.151 by giving necessary relaxation for implementing the same, the intention of the Government since had been clearly made in G.O.(Ms)No.151, such interpretation as has been given by the learned Judge is the only possible view to be given to the wordings of the Government Order.



W.A.Nos.27 and 42 of 2025

Therefore, the attempt made now through these intra Court appeals by the appellant Department does not hold any water and such interpretation if it is given, that will be detrimental to the beneficiaries of the Government Order, i.e., differently abled persons who have been working for more than two years and it would defeat the very purpose of the Government Order which emanated from the policy decision taken by the Government at higher level. It cannot also be stated that the benefit of the Government Order would apply only after completion of two years period from the date of issuance of the Government Order, as, such interpretation is not at all possible to be carried out from the wordings mentioned in the Government Order.

18. Resultantly, these Writ Appeals fail, hence they are liable to be dismissed, accordingly, dismissed. Three months time is granted to implement the order passed by the writ Court, which is impugned herein. Till such time, no coercive steps shall be taken against the appellants. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(R.S.K., J.) (C.S.N., J.)

08.01.2025

NCC : Yes / No
Index : Yes / No



Speaking Order : Yes / No

WEB COPY



W.A.Nos.27 and 42 of 2025



WEB COPY



W.A.Nos.27 and 42 of 2025

**R.SURESH KUMAR, J.
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C.SARAVANAN, J.**

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**W.A.Nos.27 and 42 of 2025
and
C.M.P.Nos.173 and 288 of 2025**

08.01.2025