



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2017

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)Nos.7521 & 7522 of 2014 and
M.P(MD).Nos.1 and 1 of 2014 in both W.Ps. and
W.M.P(MD).Nos.10950 of 2016 in
W.P(MD)Nos.7521 of 2014 in WP(MD).7521/14 and WMP(MD).10951/16 in
WP(MD).7522/14

K.Kalimuthan Petitioner in W.P(MD).No.7521 of 2014

T.Natarajan Petitioner in W.P(MD).No.7522 of 2014

vs.

1.The Commissioner for Milk Production
and Dairy Development,
Mathavaram,
Chennai - 600 051

2.The General Manager,
Sivagangai District Cooperative Milk Producers'
Union Limited,
Kazhanivasal, Karaikudi - 2

Respondents in both W.Ps.

PRAYER:- The Writ Petitions are filed under Article 226 of the Constitution of India to issue a Writ of Certiorairi calling for the records relating to the impugned order of recovery and reduction of pay passed by the second respondent in his proceeding Roc.No.2203/P & A1/ 2011-12 dated 07.04.2014 which was received by the petitioner on 21.04.2014 and 17.04.2014 respectively and quash the same as illegal.

For Petitioner	: Mr.B. Karunanithi in both W.Ps
For R - 1	: Mr.S.Kumar, Additional Government Pleader
For R2	: Mr. R. Anantharaj in both W.Ps.

COMMON ORDER

<https://hcservices.ecourts.gov.in/hcservices/> These Writ Petitions are filed to call for the records relating to the impugned order or recovery and reduction of pay passed by the second respondent in his proceeding Roc.No.2203/P &



A1/ 2011-12 dated 07.04.2014 which was received by the petitioner on 21.04.2014 and 17.04.2014 respectively and quash the same as illegal.

2. The case of the petitioners is that they were appointed as Junior Assistants on 12.06.1989 and 01.06.1994 respectively in the second respondent office and they were working as a Selection Grade Junior Executive on 01.1.2007. As per the G.O.Ms.No.234 Finance (Pay Commission) Department, dated 01.06.2009, the salary was revised with effect from 01.01.2006 with monetary benefits from 01.01.2007. But, in the revised pay structure, no separate scale of pay was provided for selection grade / Special Grade Holders. In this regard, One Man Commission was appointed in the year 2010. Based on the One Man Commission's recommendation, the Government of Tamil Nadu issued G.O.Ms.No.254 to 338 Finance (Pay Commission) Department, dated 28.06.2010 and thereby, revising the scale of pay of various posts, department wise. Consequent to the above revision of scale of pay for the ordinary grade posts, based on the recommendation of the One Man Commission, Employees Association and the Heads of the Department sought for clarification as to the procedures / guidelines to be followed in the case of employees of Selection Grade / Special Grade posts. The Government of Tamil Nadu by letter, dated 08.11.2010 issued guidelines for fixation of pay in the revised Selection Grade and Special Grade Posts. Based on the guidelines, the petitioners pay was fixed in the pay band of Rs.9,300-34,800 with Grade pay of Rs.4,200/-, notionally as on 01.01.2006 with monetary benefits with effect from 01.02.2011 and they were given arrears of pay, based on the revised scale. On 07.04.2014, based on the office letter of the first respondent in R.C.No.14869 / N3/2013, dated 25.01.2014, the second respondent issued impugned order dated 07.04.2014, without issuing any notice and without assigning any reason, reducing their pay from the pay band of Rs.9,300-34,800 with grade pay Rs.4,200/-, to pay band of Rs.5,200/- - 20,200/- with grade pay Rs.2,800/-. The said order of the first respondent was not communicated to the petitioners. Further, it was stated in the impugned order that consequent to the reduction of their pay as mentioned above, the excess payment should be recovered from six equal monthly installments from April, 2014 onwards. Aggrieved over the same, the petitioners have filed the present Writ Petitions.

3. Heard the learned counsels appearing for the petitioners and the learned Additional Government Pleader appearing for the first respondent and the learned counsel appearing for the second respondent in both the Writ Petitions.

4. From the impugned order it is seen that as per the <https://hcservices.in/hcservices/> This office proceedings even No. dated 16.03.2012 and (ii) The CMPDDD - Chennai - 51 Lr.Rc.No.14869/N3/2013, dated 25.01.2014, the reference 1st cited is not in accordance with the



orders of 6th pay commission implementations and therefore, as directed in the reference II cited, the fixation of pay in the selection grade of the individual is revised and refixed as follows:

W.P(MD).No.7521 of 2014

Already fixed in pay band : Rs.9300 - 34800 GP Rs.4,200/-
Rs.9300 + 4200 = 13500 as on 01.01.2006 & MBF 01.2.11
Now Revised scale of pay in Rs.5200-20200 G.P.2800
Rs.8050+2800 = Rs.1-850 as on 1.1.06 & MBF 1.02.11

The Subsequent increments already sanctioned are also revised as follows:

S.No .	Annual Increment	Pay	As on
1	...	8050+2800 = 10,850.00	01.01.2006
2	330/-	8380+2800 = 11,180.00	01.04.2006
3	340/-	8720+2800 = 11,520.00	01.04.2007
4	350/-	9070+2800 = 11,870.00	01.04.2008
5	360/-	9430+2800 = 12,230.00	01.04.2009
6	370/-	9800+2800 = 12,600.00	01.04.2010
7	380/-	10180+2800 = 12,980.00	01.04.2011
8	390/-	10570+2800 = 13,370.00	01.04.2012
9	410/-	10980+2800 = 13.78000	01.04.2013

W.P(MD).No.7522 of 2014

Already fixed in pay band : Rs.9300 - 34800 GP Rs.4,200/-
Rs.9300 + 4200 = 13500 as on 01.01.2006 & MBF 01.2.11
Now Revised scale of pay in Rs.5200-20200 G.P.2800
Rs.9010+2800 = Rs.11810/- as on 1.1.06 & MBF 1.2.11

S.No .	Annual Increment	Pay	As on
1	...	9010+2800 = 11,810.00	01.01.2006
2	360/-	9370+2800 = 12,170.00	01.04.2006
3	370/-	97400+2800 = 12,540.00	01.04.2007
4	380/-	10120+2800 = 12,920.00	01.04.2008
5	390/-	10510+2800 = 13,310.00	01.04.2009
6	400/-	10910+2800 = 13,710.00	01.04.2010
7	420/-	11330+2800 = 14,130.00	01.04.2011



8	430/-	11760+2800 = 14,560.00	01.04.2012
9	440/-	12200+2800 = 15,000.00	01.04.2013

5. The revised re-fixation has been done without giving an opportunity to the petitioners to put-forth their views. Hence, they filed the present Writ Petitions and there was a stay granted by this Court on 29.04.2014 and the matters are pending before this Court, till date. In the meanwhile, on attaining the age of superannuation, the petitioners were allowed to retire from service, but, all the terminal benefits were not disbursed stating that the petitioners filed W.P(MD).No.7521 and 7522 of 2014 and the interim stay is pending and their benefits will be disbursed only on the basis of the results of the Writ Petitions and whether they are entitled to receive the same. Hence, this Court is of the opinion that sufficient opportunity is not given to the petitioners while reducing their salary and whether the said calculation of benefits are as per the Management is correct or wrongly fixed is not known to the petitioners and hence, an opportunity has to be given to the petitioners while doing so.

6. The learned counsels pleaded that it is against the principles of natural justice and hence, the matters may be remanded back to the second respondent to give them an opportunity and the calculations and fixations of other interests to be provided to them and after hearing them the necessary orders can be passed. Whether the reduction in the order is correct or re-fixation of the salary is correct, as per the 6th pay commission can be decided, within a period of three months from the date receipt of a copy of this order.

7. The petitioners are directed to submit a representation to the concerned respondent within a period of two weeks from the date of receipt of a copy of this order and the same has to be considered by the respondents within a period of three months, after receipt of such representation and pass necessary orders as per law.

8. With the above direction, the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

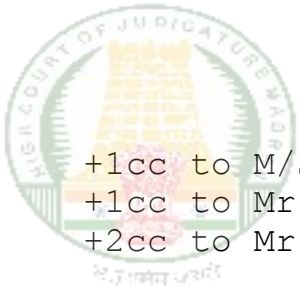
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The Commissioner for Milk Production
and Dairy Development,
Mathavaram,
Chennai - 600 051



+1cc to M/S.Special Government Pleader,SR. 92109,92107
+1cc to Mr.R.ANANDHARAJ,Advocate,SR. 91818
+2cc to Mr.B.KARUNANITHI,Advocate,SR. 91708

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