

IN THE HIGH COURT OF JUDICATURE AT MADRAS

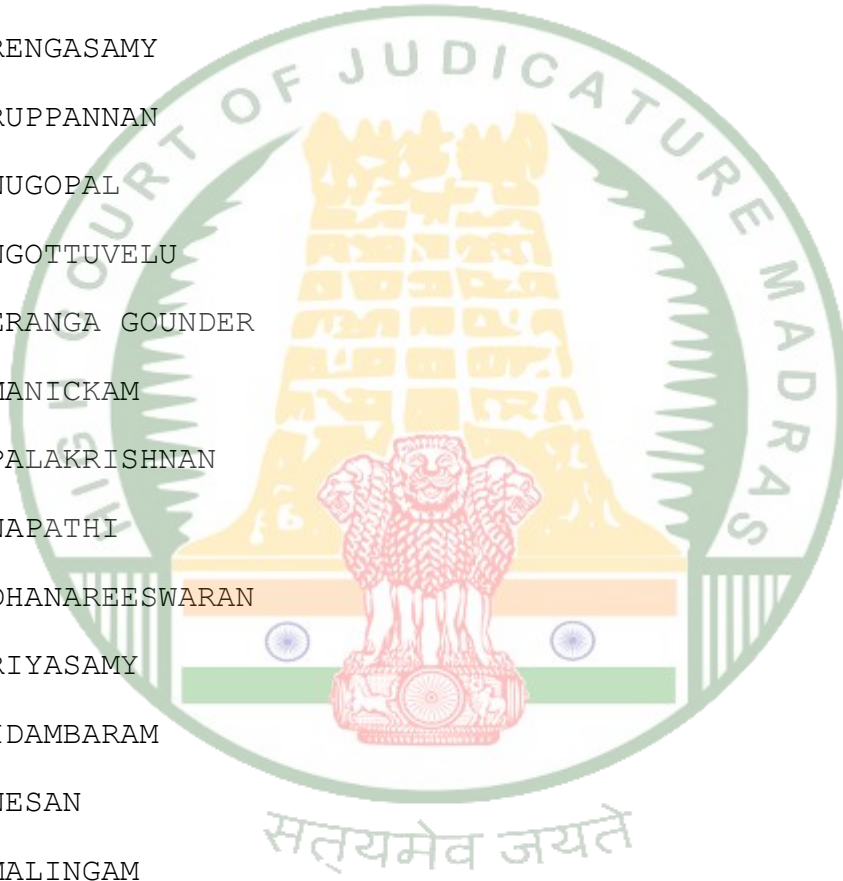
DATED: 19.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Ms.JUSTICE P.T.ASHA

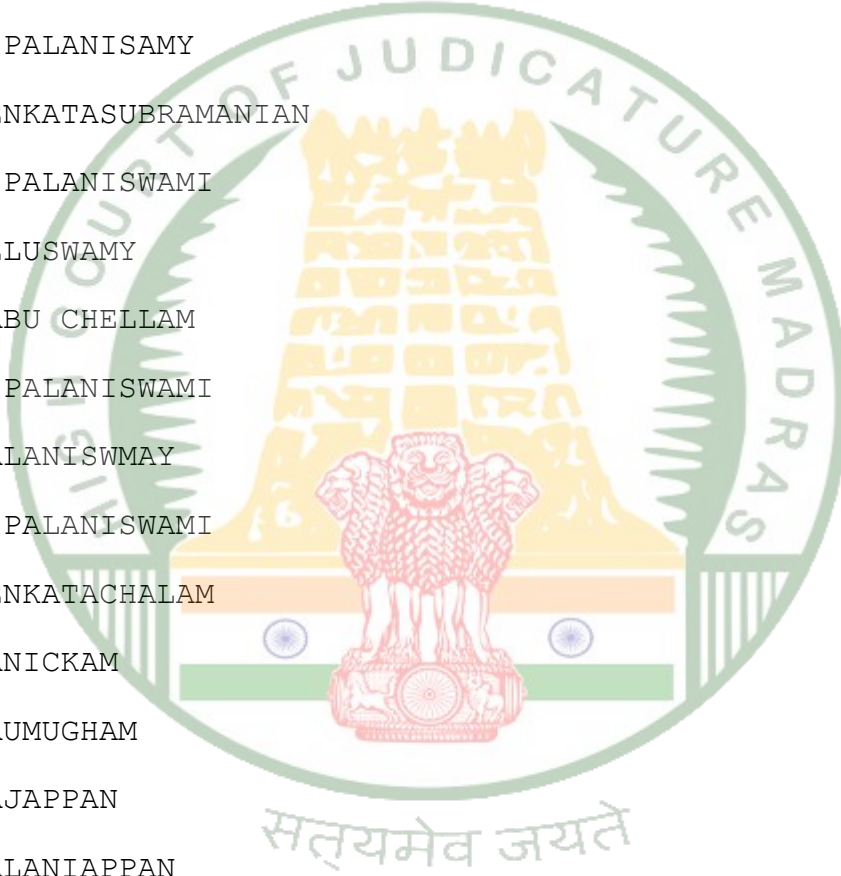
W.A.Nos.1214 to 1216 of 2014, 1459 to 1461 of 2014
and W.A.Nos.1129, 1130/2015

1 P.R.RENGASAMY
2 S.KARUPPANNAN
3 A.VENUGOPAL
4 R.SENGOTTUVELU
5 K.SEERANGA GOUNDER
6 R.A.MANICKAM
7 M.GOPALAKRISHNAN
8 L.GANAPATHI
9 S ARDHANAREESWARAN
10 A.PERIYASAMY
11 N.CHIDAMBARAM
12 S.GANESAN
13 A.RAMALINGAM
14 C.RENGASAMY
15 P.LOGANATHAN
16 E.SRINIVASAN
17 S.PARUVATHAM
18 O.A.MARUSAMY
19 R. RANGARAJ



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20 S.P. DURUVARAJAN
21 S. MUTHUSAMY
22 O.N. NATARAJAN
23 P. RAMASAMY
24 M. AYYASAMY
25 N. MUTHUSAMY
26 S.R. PALANISAMY
27 V. VENKATASUBRAMANIAN
28 S.C. PALANISWAMI
29 K. VELUSWAMY
30 J. BABU CHELLAM
31 M.M. PALANISWAMI
32 K. PALANISWMAY
33 K.C. PALANISWAMI
34 M. VENKATACHALAM
35 M .MANICKAM
36 P. ARUMUGHAM
37 R. RAJAPPAN
38 K. PALANIAPPAN
39 R. THIRUMALAIANDI
40 K.S. SHANMUGAIAH
41 R. GANESAN
42 N. KRISHNASAMY
43 C. VELUCHAMY
44 I. VELLAPANDI



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45 K.M. SUNDARESAN

46 K. BHASKAR

47 SUGIRTHARAJ RATHNASAMY

48 S. KUPPUSWAMY

49 R. LAKSHMIPATHY

50 S. SAKTHIVADIVELU

51 T.V.C. DAMODARAN

52 S. SUBBIAH

53 N.S. RANGASAMY

54 M. THANGAVELU

55 K. M. RAMASAMY

56 R. KALYANI

57 T.P. ARUMUGHAM

58 T.K. THAMMANAN

... Appellants in both the
W.A.No.1214 and 1461/2014.

1 S.RAJU

2 K.KATHIRESAN

3 C.SHENBAGAM

4 V.VEERI CHETTY

5 N.NARAYANASAMY

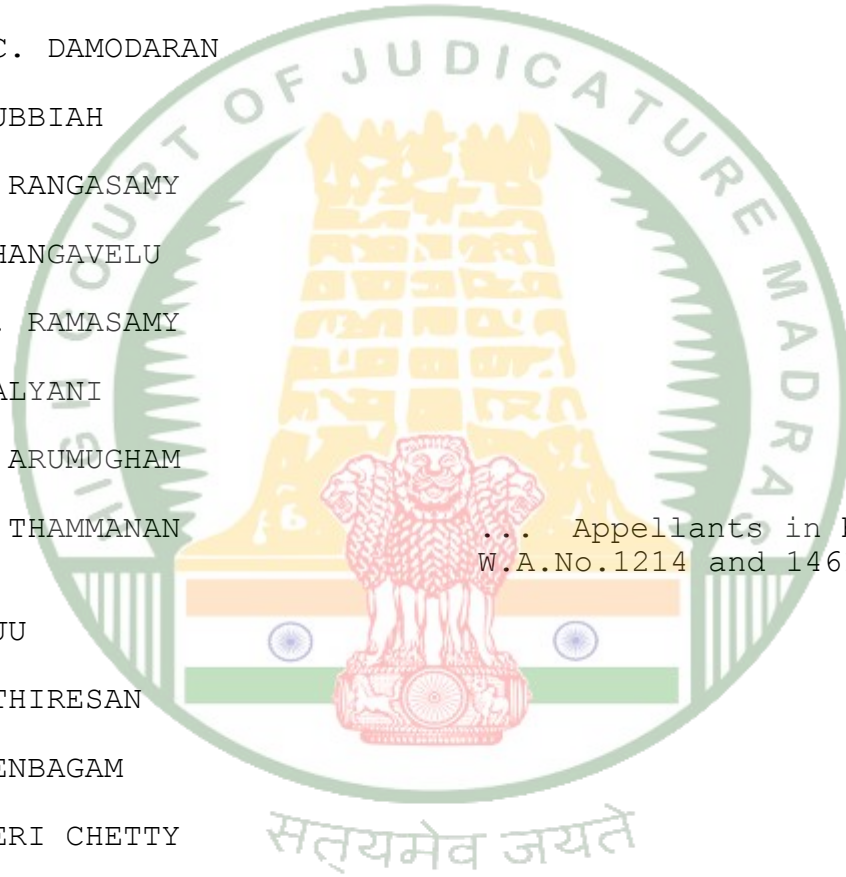
6 R.NAGARAJAN

7 K.ABBASU

8 R.VEMBULU

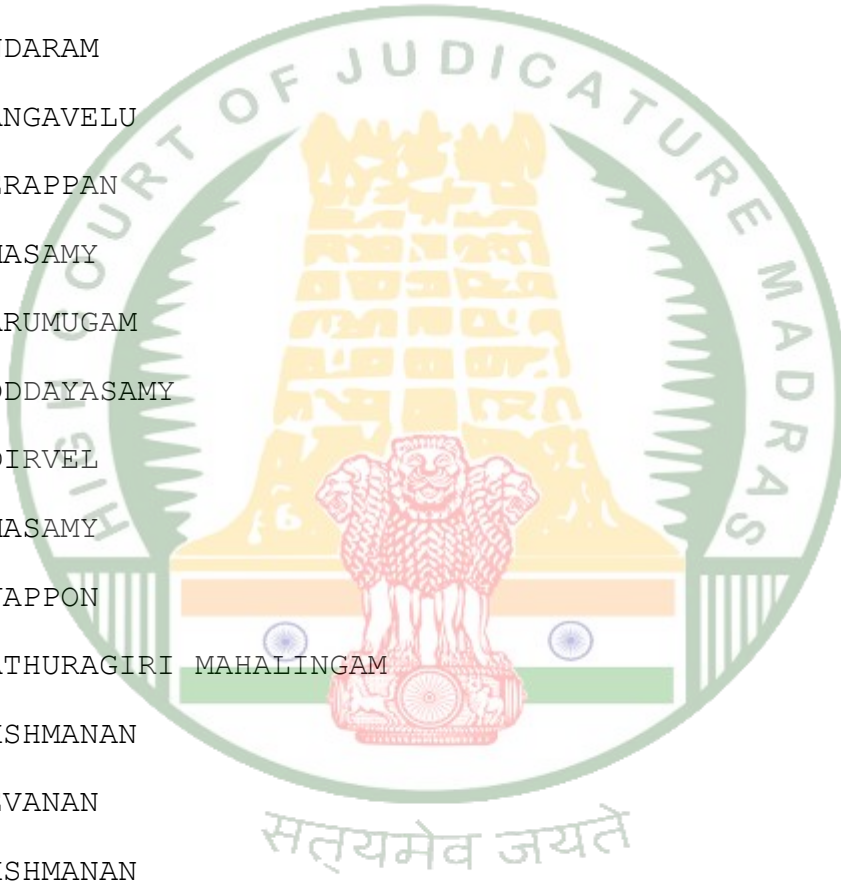
9 R.MANOCHARAN

10 K.ARJUNAN



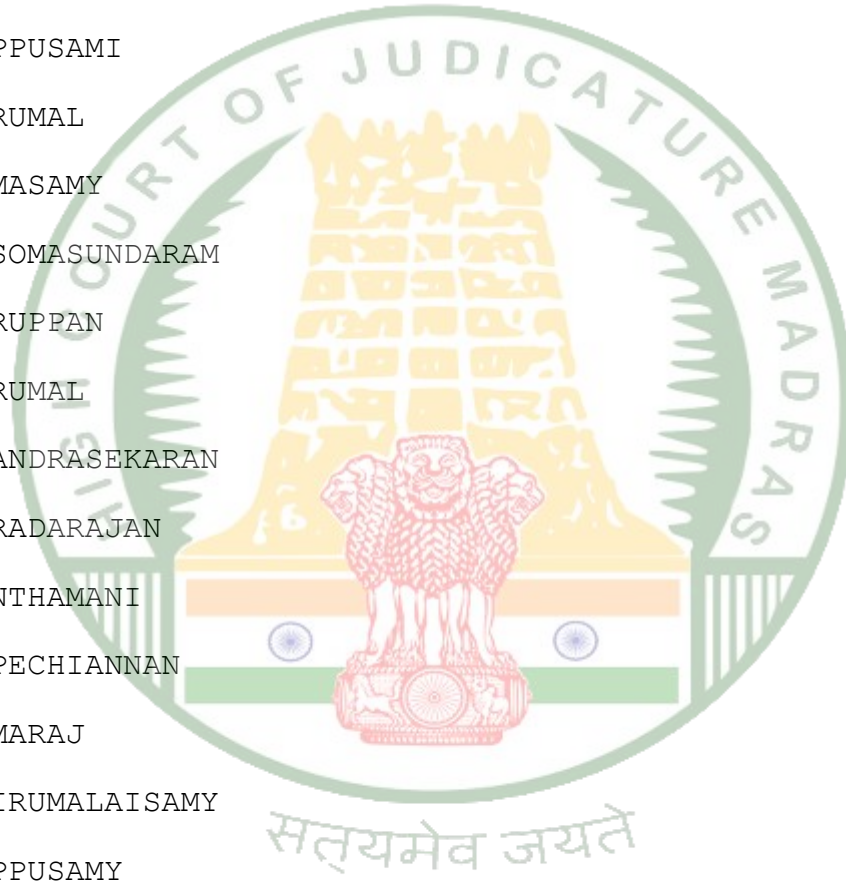
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- 11 K.KANAKKAN
- 12 K.KRISHNAN
- 13 N.SUBRAMANIAM
- 14 C.S.ANANTHANARAYANAN
- 15 G.RAJAGOPAL
- 16 K.VEERAMUTHU
- 17 P.SUNDARAM
- 18 R.THANGAVELU
- 19 K.VEERAPPAN
- 20 K.RAMASAMY
- 21 R.P.ARUMUGAM
- 22 S.THODDAYASAMY
- 23 K.KADIRVEL
- 24 N.RAMASAMY
- 25 V.RAJAPPON
- 26 U. SATHURAGIRI MAHALINGAM
- 27 M.LAKSHMANAN
- 28 N.CHEVANAN
- 29 J.LAKSHMANAN
- 30 L. BELLIE (DECEASED) L.NANJUN
- 31 M.B.RAJU
- 32 M.MOHAMED ZACARIA
- 33 N.PALANISWAMY
- 34 T.RAJENDRAN



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35 M.PALANISAMY
36 K.R.VENKATACHALAM
37 S.SUBBARAMAN
38 V.RAMASAMY
39 P.PALANI GOUNDAN
40 S.P.SENGODAN
41 K.KUPPUSAMI
42 M.PERUMAL
43 P.RAMASAMY
44 M.S.SOMASUNDARAM
45 M.KARUPPAN
46 S.PERUMAL
47 G.CHANDRASEKARAN
48 R.VARADARAJAN
49 R.SANTHAMANI
50 M.M.PECHIANNAN
51 M.KAMARAJ
52 R.THIRUMALAISAMY
53 M.KUPPUSAMY
54 N.KARUPPIAH
55 A.V.PALANISWAMY
56 A.IRUDAYAM
57 V.SUSAI
58 S.LOORTHURAJ



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59 A.RAJA CHELLADURAI

... PETITIONERS in WA No.1215 of 2014
and W.A. 1459/2014

(Cause Title accepted vide order of Court dated 13.08.2014 made
in M.P. 1 & 1 & 1 of 2014 (W.A. 1215/2014))

(Cause Title accepted vide order of Court dated 17.01.2014 made
in M.P. 1/2013 in W.A.SR. 80510/2013)

1 N.V.NAGANATHAN

2 N.SABARATHINAM

3 C.RAMANATHAN

4 N.KRISHNAMURTHY

5 R.LAKSHMANAN

6 S.RAMACHANDRAN

7 R.ALAGARSAMY

8 PREMAVATHI RAJAN

9 R.VENKATARAMANI

10 G.SELVAMANI

11 R.RAJASEKARAN

12 P.NACHIMUTHU

13 ESTHER COKE

14 HANNA EBENEZER

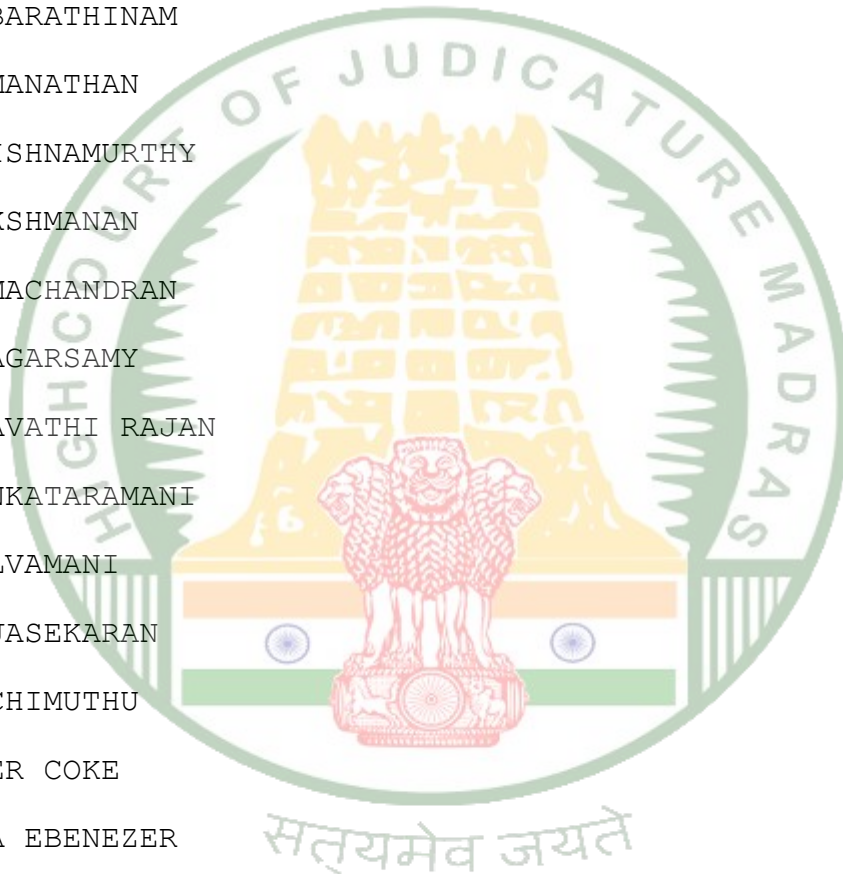
15 M.PARVATHY

16 S.DHARMARAJAN

17 S.SUBBIAH

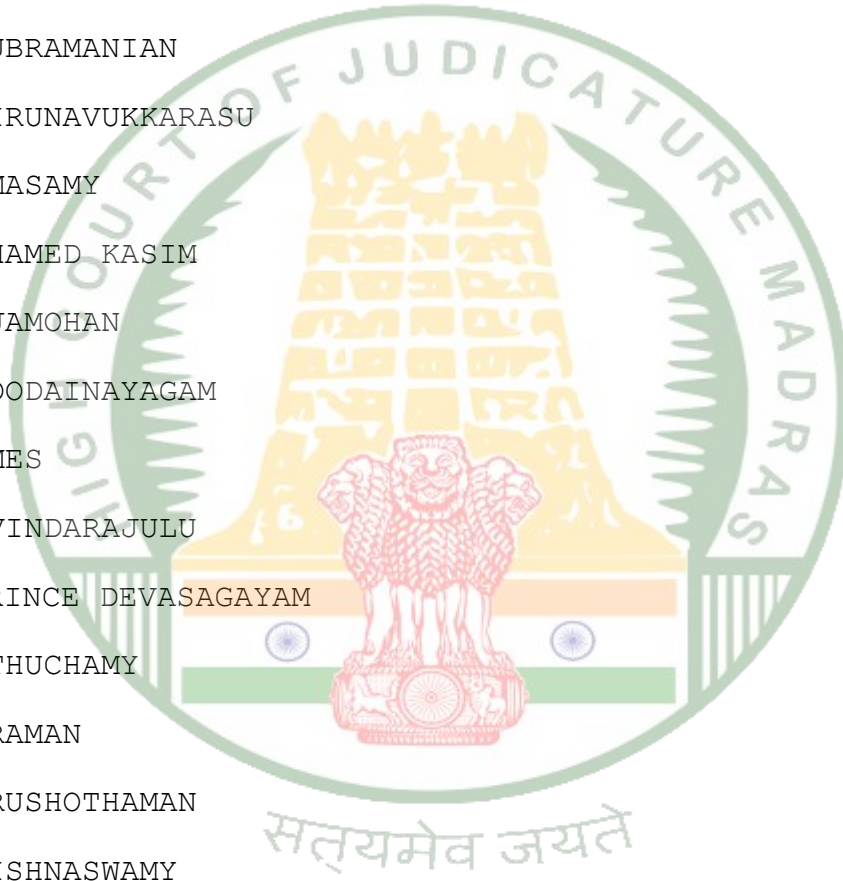
18 P.KESAVAN

19 R.KRISHNASAMY (DECEASED)



WEB COPY

20 K.N.MUTHUSELVAN
21 A.GOVINDA RAMANUJAM
22 AT.KARIAPPA
23 R.IRULAPPAN
24 P.MUTHUSAMY
25 A.KUMARASAMY
26 K. SUBRAMANIAN
27 V.THIRUNAVUKKARASU
28 M.RAMASAMY
29 A.MOHAMED KASIM
30 R.RAJAMOHAN
31 C.AVOODAINAYAGAM
32 M.JAMES
33 N.GOVINDARAJULU
34 L. PRINCE DEVASAGAYAM
35 M.MUTHUCHAMY
36 K.PIRAMAN
37 G.PURUSHOTHAMAN
38 N.KRISHNASWAMY
39 M.VELUSWAMY
40 M.V.MANICKAM
41 S.SUBRAMANIAN
42 V.RANGANATHAN
43 V.SHANMUGHAM



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44 R.VELU
45 S.SACHITHANANDAM
46 M.SHANMUGAM
47 K.ABDUL SATHAR
48 R.VENKATACHALAPATHI
49 T.S.SUBRAMANIAN
50 K.S. KRISHNASAMY
51 O.M.RANGASAMY
52 K.M.PARVATHAM
53 N.RAMALINGAM
54 A.KANNAMMAL
55 M.JOSEPH
56 V.SUBBIAH
57 G.ARUMUGHAM
58 P.PACKIRISAMY
59 M.MUTHUPEYATHEVAN

... PETITIONERS in WA No.1216 of 2014
and W.A. 1460/2014.

(Cause Title accepted vide order of Court dated 13.08.2014 made
in M.P. 1 & 1 & 1 of 2014)

1 K.KANDASAMY
2 R.MUTHUSAMY
3 M.R.SUBBAIAH
4 G.KRISHNASAMY
5 K.KARUPPANNAN
6 P.N.PALANISAMY

WEB COPY

7 P.N.SUBBARAYAN
8 A.PALANIAPPAN
9 C.KARUPPAN
10 A.SOMASUNDARAM
11 P.N.RAMASAMY
12 K.KRISHNAMOORTHY
13 P.SAMIDURAI
14 M. PONNUSAMY
15 S.V.RAMASAMI
16 K.SENGODAN
17 V.NARASIMHACHARI
18 T.R.KANDASAMY
19 M.MATHIYAZHAGAN
20 R.THANGAVELU
21 V.K.KANDASAMY
22 K.V.CHANDRAN
23 P.S.VIVEKANANDAN

..Appellants/Respondents in
W.A. 1129/2015.

1 H.S.NAGARAJAN
2 N.PERIASAMY
3 S.SUNDARARAJAN
4 N.KRISHNAN
5 C.NATARAJAN
6 C.SOUNDARARAJAN

7 K.PALANIAPPAN
8 D.VENUNATHAN
9 N.KANNAN
10 S. NALLAPPAN
11 K.A.KRISHNAN
12 M.RAJAMANICKAM
13 S.AUTHINARAYANAN
14 M.GOVINDARAJAN
15 S.KANDASAMY
16 K.KRISHNAMOORTHY
17 R.VADIVELU
18 V.ARANGASAMY
19 A.DEIVANAI
20 N.RAJAGOPAL
21 N.P.PONNUSWAMY

...Appellants/Petitioners in
W.A. 1130/2015.

Vs

1 THE SECRETARY TO GOVERNMENT SCHOOL
EDUCATION DEPARTMENT FORT ST. GEORGE
CHENNAI-9.

2 THE SECRETARY FINANCE DEPARTMENT
FORT ST. GEORGE CHENNAI-9.

3 THE DIRECTOR OF SCHOOL
EDUCATION COLLEGE ROAD CHENNAI-6.

...Respondents in all W.A.s
W.A. 1214 to 1216/2014 and
W.A. 1459 to 1461/2014

1 THE STATE OF TAMIL NADU
REP. BY ITS SECRETARY TO GOVERNMENT SCHOOL
EDUCATION DEPARTMENT FORT ST. GEORGE
CHENNAI-9.

2 THE DIRECTOR OF SCHOOL
EDUCATION COLLEGE ROAD CHENNAI-6.

..Respondents in both the
W.A. 1129 & 1130/2015.

Writ Appeal Nos. 1214 to 1216/2014 filed against the order in Review Application No.21 of 2013 against W.P.No.16020/2010 and W.P. 18744 & 20360/2010, W.A. 1459 to 1461/2014, W.A. 1129/2015 & 1130/2015 against the order dated 19.10.2012 in W.Ps.17129 & 17130 and 16020/2010, W.P. 20360/2010, W.P. 18744/2010 dated 07.03.2013.

W.A.1214 to 1216/2014, Rev.Appln.No. 21 to 23/2013:

Review Appeal filed under Section 114 r/w and order 47, Rule 1 of CPC against the order made in M.P. 16020/2010, 18744/2010 and 20360/2010 dated 19.10.2012 and consequently allow the Writ Petition as prayed for W.P. 16020, 18744 and 20360/2010. Petitions filed under Article 226 of the Constitution of India praying for Writ of Certiorarified Mandamus calling for the records of the first and third respondents in relation to letter No. 25103/A1/09-2 dated 21.01.2010 and proceedings in Na.Ka. No. 82853/C1/2/09, 25.02.2010 respectively and quash the same and issue a consequential direction to the Respondents to extend the benefits of G.O. No. 1581 Education dated 06.11.1989 to the Petitioners as well as in the way and manner as implemented as in the case of 'A' wing teacher and to grant arrears of pay and pension respectively.

W.P.Nos.16020, 18744 & 20360/2010:

Petitions filed under Article 226 of the Constitution of India praying for a Writ of certiorarified Mandamus calling for the records of the first and 3rd respondent in relation to letter No.25103/A1/09-2, dt.21.1.2010 and proceedings Na.Ka.No.82853/C1/E2/09, dt.25.2.2010 respectively and quash the same and issue a consequential direction to the respondents to extend the benefits of the G.O.Ms.No.1581, Education Department, dt.6.11.1989 to the petitioners as well in the way and manner as implemented as in the case of A wing teachers and to grant arrears of pay and pension and

WP No.17129 of 2010

Writ of Certiorairfied Mandamus Calling for the records relating to the order in Letter No.25103/A1/09-2, dt.21.1.2010

of the 1st respondent herein and the consequential order in Procs.Na.Ka.No.82853/C1/ E2/09 dt.25.2.2010 of the 2nd respondent herein, and quash the same in so far as the petitioners are concerned and to direct the respondents to extend the benefits granted to A Wing Head Masters of High School to the B Wing Head Masters of High School (the petitioners herein) has been done in respect of A Wing Head Masters for counting qualifying service, in the matter of awarding Selection Grade/ Special Grade.

Prayer in WP No.17130 of 2010:

Calling for the records relating to the order in Letter No.25103/A1/09-2, dt.21.1.2010 of the 1st respondent herein and the consequential order in Procs.Na.Ka.No.82853/C1/ E2/09 dt.25.2.2010 of the 2nd respondent herein, and quash the same in so far as the petitioners are concerned and to direct the respondents to extend the benefits granted to A Wing Head Masters of High School to the B Wing Head Masters of High School (the petitioners herein) has been done in respect of A Wing Head Masters for counting qualifying service, in the matter of awarding Selection Grade/ Special Grade

For appellant : Mr.V.Prakash, Senior counsel,
for Mr.R.Saseetharan

For Respondents: Mr.S.T.S.Moorthy, Addl. Advocate General,
Assisted by Mr.C.Munusamy, Spl.G.P.

COMMON JUDGMENT
(made by K.K.SASIDHARAN, J.)

This is a very strange case of teachers who were categorized as "B" Wing, initially challenging the Government Order in G.O.Ms.No.1581, Education Department, dated 6 November 1989 before the Tamil Nadu Administrative Tribunal and after the dismissal of the original application, claiming the benefits of the very same Government Order on the ground that selective implementation would amount to discrimination.

Brief facts:-

1. The Government of Tamil Nadu issued orders in G.O.Ms.No.1968, Education Department, dated 2 November 1978, for integration of the staff of "A" Wing
2. and "B" Wing by following the procedure indicated in the said Government Order.

3. The "A" Wing employees were appointed in the combined cadre of Senior Assistant/Deputy Inspector of Schools/Head Master Grade I and II. "B" Wing teachers were originally working

under the District Boards and they were absorbed into the Government service. The Government accordingly separated the employees as "A" Wing and "B" Wing. Certain benefits were given to the "A" Wing Headmasters of the High school on the strength of the Government Order in G.O.Ms.No.1581, Education Department, dated 6 November 1989. The benefits were not extended to "B" Wing teachers. The "B" Wing teachers, therefore, challenged the very Government Order in G.O.Ms.No.1581, Education Department, dated 6 November 1989 before the Tamil Nadu Administrative Tribunal. The original application in O.A.No.1020 of 1990 was dismissed by order dated 13 September 1991, upholding the validity of the Government Order issued to protect the interest of the "A" Wing teachers. The Government Order has become final. It was only thereafter, the "B" Wing teachers made a claim to extend them the benefits of the Government Order in G.O.Ms.No.1581, Education Department, dated 6 November 1989.

4. The claim made by the "B" Wing teachers was rejected and the same resulted in filing Writ Petition in W.P.Nos.16020 of 2010 etc. batch. The Writ Petitions were dismissed by order dated 19 October 2012. The said order is under challenge in these intra court appeals.

5. We have heard the learned Senior counsel for the appellants. We have also heard the learned Additional Advocate General on behalf of the State.

Discussion:-

6. The Government of Tamil Nadu abolished the District Boards, and consequently High Schools functioning under the control of those Boards were taken over by the Government. The teachers were absorbed into the Government service with effect from 1 April 1970. For the purpose of integration and administrative convenience, persons who were working in the Government schools and those appointed in Government Schools with effect from 1 April 1970 were classified as "A" Wing. The teachers of the Board schools who were absorbed into the Government service were called as "B" Wing.

7. There were two separate cadres of High school Headmasters in the Government High schools. That was the position prior to 2 October 1970. There was a combined cadre of School Assistants/ Deputy Inspector of Schools/ Headmasters of Grade I and Grade II in the Madras Educational Subordinate Service. The Headmasters were given the designation of Gazetted Headmasters in Government schools on the basis of the student strength. The post of Gazetted Headmaster was treated as the promotional post to the combined cadre and Inspecting Officers were appointed from the seniority list from the post of Gazetted Headmasters on merit. However in the Board Schools, there were two different and

distinct posts viz., Headmaster and BT Assistant. Since there were no equal cadre in the Government Schools and in the schools controlled by the District Board, the employees who were absorbed were placed under a separate service rules till issuance of Government Order in G.O.Ms.No.1968, Education dated 2 November 1978. The posts of Grade I and II in "A" Wing were abolished after the report submitted by the Second Pay Commission. In order to equalize the cadre in both "A" Wing and "B" Wing, the combined cadre of "A" Wing was modified as two separate categories viz., Headmaster and Deputy Inspector of Schools / School Assistant. The School Assistants / Deputy Inspector of Schools was made as a feeder category for appointment to the post of High school Headmasters, which is a higher post with a super time scale of pay. Therefore, it is clear that a new cadre of High School Headmaster was created in the "A" Wing with effect from 2 October 1970. However, that was not the case of the employees of "B" Wing.

8. The III Pay Commission introduced the concept of Selection Grade, in case an employee has put in more than ten years of meritorious service. This was introduced from 1 October 1978. The "B" Wing teachers working in the post of Headmasters of High Schools who had put in ten years of service were awarded the Selection Grade. In the similar manner, teachers who were appointed in the combined cadre of School Assistant/Deputy Inspector of Schools/ headmaster of High Schools Grade I were also awarded Selection Grade in the post of High School Headmaster by counting the period of service rendered in the combined cadre of School Assistant/ Deputy Inspector of Schools/ headmaster Grade I, as per G.O.Ms.No.2190 Education dated 10 October 1980.

9. The award of Special Grade, on completion of twenty years was introduced by the IV Pay Commission, which was made effective from 1 October 1984. The Government, in accordance with the recommendation made by the one man Committee, passed an order in G.O.Ms.No.1652 Education dated 26 October 1987. As per the Government Order, Headmasters of High Schools, irrespective of the type of management were given Special Grade on completion of a total period of 20 years in the post. This was again irrespective as to whether 10 years of service in the Selection Grade was completed. The "B" Wing Headmasters were given the benefit of Special Grade on account of their 20 years of service. However, the Headmasters of "A" Wing who were appointed in the combined cadre of School Assistant/ Deputy Inspector of Schools. Headmaster Grade I, prior to 2 October 1970, were not allowed to count the Grade I service for computing 20 years of service for the purpose of awarding Special Grade.

10. The "A" Wing teachers submitted series of

representations claiming Selection Grade and Special Grade as on 1 October 1978 and 1 April 1984. The Government considered the recommendations and ultimately issued an order in G.O.Ms.No.1581 Education dated 6 November 1989.

11. The Government Order in G.O.Ms.No.1581 Education dated 6 November 1989 was challenged by the "B" Wing before the Tamil Nadu Administrative Tribunal. Before the Tribunal, "B" Wing teachers contended that the combined cadre consists of School Assistant/ Deputy Inspector of Schools Grade I, and it was the feeder category to the post of Headmaster/School Assistant Grade I. However, the impugned order upgraded School Assistant/Grade II and Deputy Inspector of Schools Grade II as Headmasters and thereby the feeder category has been merged with the promoted category. It was further contended that in view of the benefit conferred by the Government Order in G.O.Ms.No.1581 Education, dated 6 November 1989, the School Assistants, Grade II and Deputy Inspectors of Schools, Grade II, who were integrated with School Assistants of "B" Wing schools on the take over of the District Board Schools by the Government would become seniors to the Headmasters of "B" Wing schools.

12. The Tribunal rejected the contentions taken by the "B" Wing and dismissed the original applications. The Tribunal opined that the concession given to the "A" Wing teachers appointed prior to 2 October 1970 in the combined cadre was only in respect of monetary benefits and it would not affect the seniority in any manner. The Tribunal observed that monetary benefits were given only after the employees were promoted as Headmasters and the same would not affect the seniority of the teachers included in the "B" Wing.

13. The "B" Wing teachers took a U turn after the dismissal of their original applications and claimed the benefits of the very same Government Order in G.O.Ms.No.1581 Education dated 6 November 1989. The claim was rejected and the same resulted in filing a string of Writ Petitions before the writ court.

14. There is absolutely no merit in the contentions taken by the appellants for the simple reason that the subsequent Government Order was in continuation of the benefit extended earlier as per the order in G.O.Ms.No.2190 Education Department dated 10 October 1980.

15. The Government as per the order in G.O.Ms.No.2190 Education Department, dated 10 October 1980, directed that the period of service rendered by the "A" Wing teachers in the combined cadre of School Assistants/ Deputy Inspector of Schools/ headmasters, Grade I, prior to 2 October 1970, may be counted for awarding selection grade in the post of Headmasters.

It was only thereafter, Government Order in G.O.Ms.No.1581, Education Department, dated 6 November 1989, was issued.

16. The Government has not given any undue advantage to the teachers included in the "A" Wing. It was only to ensure a level playing field, that the Government issued an order in G.O.Ms.No.1581, Education Department, dated 6 November 1989. The appellants challenged the said Government Order on the ground that no such benefit could be given to the teachers. The moment original application is dismissed, the appellants changed their position and claimed the benefits conferred by the very same Government Order. The claim was rightly rejected by the Government. The Writ Petitions were dismissed by the learned Single Judge with reasons. We do not find any material produced by the appellants to take a different view in the matter.

17. In the upshot, we dismiss the intra court appeals. No costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

- 1 THE SECRETARY TO GOVERNMENT SCHOOL
EDUCATION DEPARTMENT FORT ST. GEORGE
CHENNAI-9.
- 2 THE SECRETARY FINANCE DEPARTMENT
FORT ST. GEORGE CHENNAI-9.
- 3 THE DIRECTOR OF SCHOOL
EDUCATION COLLEGE ROAD CHENNAI-6.

+6 Ccs to Mr.R.Saseetharan, Advocate sr 70705, 70707, 70708, 70706.

+1 CC to The Govt. Pleader sr 70828.

+3 Ccs to Mr.R.Saseetharan, Advocate sr 70704(03/12/2019)

W.A.Nos.1214 to 1216/2014,
1459 to 1461 of 2014
and W.A.Nos.1129, 1130/2015

AD(CO)
SP(18/10/2019)