

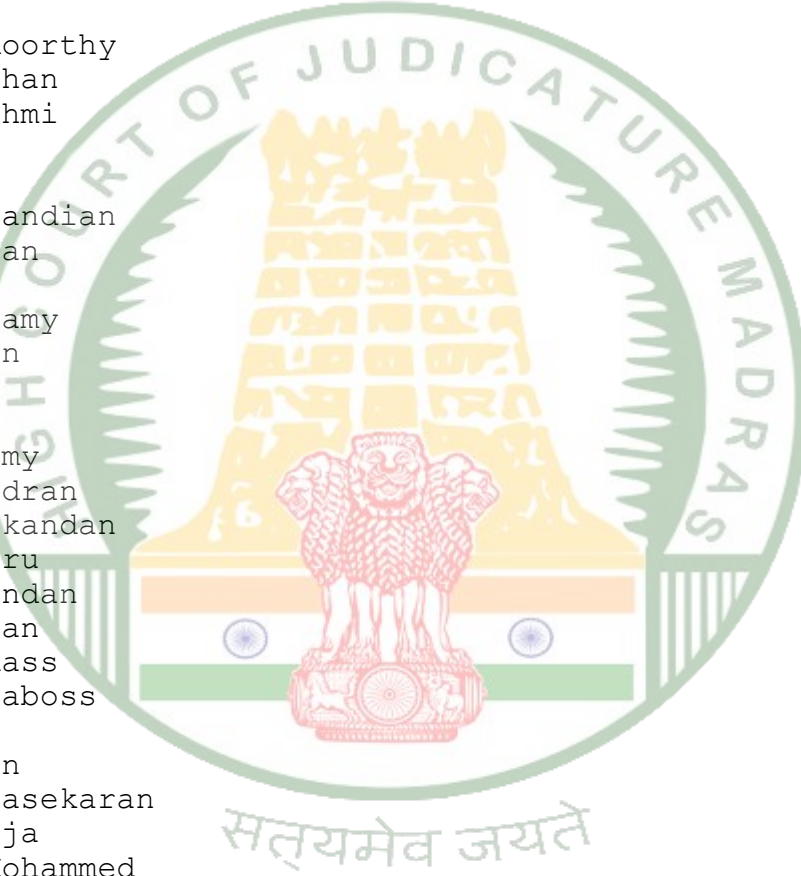
IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.01.2020

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No. 21917 of 2014
and WMP.No. 1&2 of 2014

- 1.R.Rengarajan
- 2.V.Mahalingam
- 3.A.Ganesan
- 4.C.Sundaramoorthy
- 5.R.Viswanathan
- 6.Vijayalakshmi
- 7.S.Pandi
- 8.D.Baskaran
- 9.K.Sankarapandian
- 10.L.Nagarajan
- 11.P.Murali
- 12.T.Pavunusamy
- 13.C.Senrayan
- 14.C.Murugan
- 15.K.Jawahar
16. S.Ramasamy
17. P.Deivendran
18. M.S.Manikandan
19. S.Rajaguru
20. P.Manikandan
- 21.K.Manoharan
22. A.Selvadass
23. S.Chandraboss
24. C.Sam
25. S.Ganesan
26. G.Chandrasekaran
27. K.Nataraja
28. I.Sait Mohammed
29. S.Jeyachandran
- 30.S.Soundararajan
- 31.R.Geetha
- 32.V.Madhankumar
- 33.S.S.Ramkumar
- 34.R.Ravichandran
- 35.K.Muralitharan
- 36.S.Usha Rani
- 37.C.Baskaran
- 38.P.Ilangovan
- 39.S.Sundarrajan
40. K.Mayavel



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41.B.Ananthan
42. A.Palaniyappa
43.R.Ponnusamy
44.V.Ganesan
45.R.Kailasam
46. D.Kumarasamy
47.K.Chandiran
48.M.Marthandavarman
49.A.Sivakumar
50.V.Kasirajan
51.P.Arumugam
52.K.Vijayalakshmi
53.T.Subathra
54.R.Dhandapani
55.A.Natarajan
56.R.Elangovan
57.D.Ramesh
58.K.Murugaiah
59.K.Chandran
60.D.Balan
61.T.Thomsan
62.A.Pandian
63.N.V.Rajaram Pandian
64.M.Ravi
65.R.Rajendran

..Petitioners

Vs

1. The Government of Tamil Nadu,
rep, by its Principal Secretary Finance (Pay Cell) Department
Fort St.George,
Chennai - 600009.

2. The Director,
Department of Agriculture
Chepauk, Chennai -5.

3.The Director,
Department of Agriculture Marketing and Agri Business,
Guindy, Chennai -32. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned Letter bearing No.Ve.A.Pa.1/ 154665/ 2013 dated 25.4.2014 issued by the second respondent pursuant to the Audit Objection and quash the same and consequently direct to continue to pay the existing Scale of Pay as fixed by the respondents as per the fitment Table 16 of the Letter bearing No.51082/ Pay Cell/ 2010-1 dated 15.9.2010 issued by the first respondent.

For Petitioners : Mr. U.Karunakaran
For Respondents : Mr.S.Thangavelu, Spl.GP

ORDER

The prayer sought for in these Writ Petitions is to calling for the records pertaining to the impugned Letter bearing No.Ve.A.Pa.1/ 154665/ 2013 dated 25.4.2014 issued by the second respondent pursuant to the Audit Objection and quash the same and consequently direct to continue to pay the existing Scale of Pay as fixed by the respondents as per the fitment Table 16 of the Letter bearing No.51082/ Pay Cell/ 2010-1 dated 15.9.2010 issued by the first respondent.

2. Brief facts leading to the writ petition is that the petitioners were joined as Assistant Agriculture Officer in the year 1981 and subsequently promoted as Assistant Seed Officers in the year 2005 and as Agriculture Officers in the year 2006. At the time of their appointment to the post of Agriculture Officers, their pay was fixed in the pay scale of 6500-200-1100 as per Fundamental Rule 22(A). Their pay was revised as 9300 - 34800 + 4700 (grade pay) after implementation of sixth pay commission. The same scale of pay was fixed to the post of Assistant Engineers. Based on the One Man Commission report, the scale of pay to the post of Assistant Engineers was increased from 9300 - 34800 + 4700 to 5600 - 39100 + 5400. The petitioners along with similarly placed persons have submitted representations to fix the scale of pay on par with the Assistant Engineers. The Government in G.O.Ms.No.448 Finance (Pay Cell) dated 31.12.2010 revised the petitioners scale of pay at Rs. 15,600-38100 + 5400. The second respondent by way of clarification passed the impugned letter No. Ve.A.Pa.1/154665/2013 dated 25.04.2014 stating that the scale of pay of Rs.6500-200-1100 is not applicable to the Agricultural Officers promoted after 01.01.2006 and the said scale of pay will be made applicable only to the Agricultural Officer working as Agriculture Officer as on 01.01.2006. In the said letter it is stated that for the AAO working as on 01.01.2006, the pay scale is 5500-175-9000.

3. As on the date of implementation of sixth pay commission i.e on 09.02.2006, the petitioners pay was fixed in the promotional post of AO as per Rule in force FR 22 1 a(1) and FR22(B). Therefore on implementation, the revised pay has to be fixed only in the promotional post of AO as on 09.02.2006 in the pay scale of 6500-200-11100 which is applicable to the Agricultural Officer. Therefore, the petitioners' pay cannot be fixed in the pay scale applicable to be post of AAO, which is

5500-175-9000. Therefore, the reduction pay scale to the petitioners by way impugned orders by quoting audit objections is totally contrary to the G.O. 234 and contrary to the then existing Rule FR 221a(1) and FR-22(b) and the relevant rule in force at the time of promotion. Challenging the same, the present writ petition is filed.

4. Heard the learned counsel appearing for the petitioners as well as the learned Special Government Pleader appearing for the respondents and perused the documents available on record.

5. According to the learned counsel appearing for the writ petitioners, the respondents/Government have revised the scale of pay to the post of Agriculture Officers Officer vide G.O. (Ms).No.448, Finance (PC) Department, dated 31.12.2010 with notional effect from 01.01.2006 and monetary benefit from 01.12.2010. Subsequently, the Government vide letter No.51082/Pay Cell/2010-1, dated 15.09.2010 prepared additional fitment table for fixing the scale of pay to the employees. But, the respondent/department passed impugned orders without following the principles of natural justice and no reason has been adduced in the impugned order.

6. The learned counsel appearing for the petitioners further submitted that no reason has been stated in the counter affidavit that the respondent/department has wrongly fixed the revised scale of pay and without considering the Government Order and additional fitment table-16 based on the Government Order in G.O.(Ms).No.448, Finance (PC) Department, dated 31.12.2010 and for no opportunity was given to the writ petitioner for giving their explanations to the respondents/Government. It is the contention of the petitioner that the respondent neither in the impugned order nor in the counter affidavit stated that opportunity was given to the writ petitioners.

7. On the other hand, the respondents have filed counter affidavit stating that the during internal audit, it was pointed out that fitment table announced by the Government vide letter No. 51082/PayCell/2010-1, dated 15.09.2010 is only applicable to the existing Agriculture Officer those who had been holding the post on 01.01.2006 and it is not applicable for petitioner since he was not an Agricultural Officer as on 01.01.2006 and he had joined as Agricultural Officer on 02.02.2006. The objection raised in the Audit to revise the pay of the petitioner was considered and decided to recover the excess amount paid to the writ petitioner. Accordingly, the excess pay that was paid to the writ petitioners was ordered to be recovered. Therefore, the orders issued for recovery of the excess payment made to the writ petitioners is just and correct.

8. Admittedly, the respondent has not made any statement with regard to the opportunities granted to the writ petitioners. The entire statement made in the counter affidavit is that the respondent has passed impugned order based on the audit objections. Further, the respondent has not furnished copy of the audit objection or any proof to show that the opportunities given to the petitioners while passing impugned orders. In view of the above, it is a clear violation of principles of natural justice. On this ground, this Court with no hesitation, inclined to quash the impugned orders passed by the respondent/deparment.

9. In the result, writ petitions are allowed with the following directions;

- i. Impugned orders dated 25.04.2014 issued by the 2nd respondent is quashed and remitted back to the 2nd respondent.
- ii. The 2nd respondent/deparment shall issue notice to the petitioner within a period of two (2) weeks from the date of receipt of a copy of this order.
- iii. On receipt of explanations from the writ petitioner, the same shall be considered afresh by giving due opportunities to the petitioner and pass appropriate orders as expeditiously as possible, in any event, within a period twelve (12) weeks thereafter.
- iv. It is open to the writ petitioner to make out application to the authorities concerned, seeking other benefits as per Rules.
- v. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary Finance (Pay Cell) Department
Fort St. George,
Chennai - 600009.

2. The Director,
Department of Agriculture
Chepauk, Chennai -5.

3.The Director,
Department of Agriculture Marketing and Agri Business,
Guindy, Chennai -32.

+1cc to Mr.U.Karunakaran , Advocate SR.No. 6444
+1 cc to Government Pleader Sr.No. 7674

W.P.No. 21917 of 2014
and
WMP.No. 1&2 of 2014

A.SK(11/03/2020)



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